

2003

SESSION LAWS

OF THE

STATE OF WASHINGTON

REGULAR SESSION
FIFTY-EIGHTH LEGISLATURE
Convened January 13, 2003. Adjourned April 27, 2003.

FIRST SPECIAL SESSION
FIFTY-EIGHTH LEGISLATURE
Convened May 12, 2003. Adjourned June 10, 2003.

SECOND SPECIAL SESSION
FIFTY-EIGHTH LEGISLATURE
Convened June 11, 2003. Adjourned June 11, 2003.



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DENNIS W. COOPER
Code Reviser

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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 books, which are published as soon as possible following the session, at random dates as accumulated; followed by
 - (ii) a permanent hardbound edition containing the accumulation of all laws adopted in the legislative session. Both editions contain a subject index and tables indicating Revised Code of Washington sections affected.
- (b) *Where and how obtained - price.* Both the temporary and permanent session laws may be ordered from the Statute Law Committee, Legislative Building, P.O. Box 40552, Olympia, Washington 98504-0552. The temporary pamphlet edition costs \$21.60 per set (\$20.00 plus \$1.60 for state and local sales tax at 8.0%). The permanent edition costs \$54.00 per set (\$25.00 per volume plus \$4.00 for state and local sales tax at 8.0%). All orders must be accompanied by payment.

2. PRINTING STYLE - INDICATION OF NEW OR DELETED MATTER

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

- (a) In amendatory sections
 - (i) underlined matter is new matter.
 - (ii) deleted matter is (~~lined out and bracketed between double parentheses~~).
- (b) Complete new sections are prefaced by the words NEW SECTION.

3. PARTIAL VETOES

- (a) Vetoed matter is *printed in bold italics.*
- (b) Pertinent excerpts of the governor's explanation of partial vetoes are printed at the end of the chapter concerned.

4. EDITORIAL CORRECTIONS.

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

5. EFFECTIVE DATE OF LAWS

- (a) The state Constitution provides that unless otherwise qualified, the laws of any session take effect ninety days after adjournment sine die. The Secretary of State has determined the pertinent date for the Laws of the 2003 regular session to be July 27, 2003 (midnight July 26th). The pertinent date for the Laws of the 2003 first special session is September 9, 2003 (midnight September 8th). The pertinent date for the Laws of the second special session of 2003 is September 10, 2003 (midnight September 9th).
- (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 2003 laws may be found at the back of the final pamphlet edition and the permanent hardbound edition.

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CHAPTER 282

[Substitute House Bill 1721]

DENTISTRY—STUDENT PRACTICE

AN ACT Relating to the practice of dentistry by students in accredited state dental schools; and amending RCW 18.32.030.

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

Sec. 1. RCW 18.32.030 and 1994 sp.s. c 9 s 203 are each amended to read as follows:

The following practices, acts, and operations are excepted from the operation of the provisions of this chapter:

(1) The rendering of dental relief in emergency cases in the practice of his or her profession by a physician or surgeon, licensed as such and registered under the laws of this state, unless the physician or surgeon undertakes to or does reproduce lost parts of the human teeth in the mouth or to restore or to replace in the human mouth lost or missing teeth;

(2) The practice of dentistry in the discharge of official duties by dentists in the United States federal services on federal reservations, including but not limited to the armed services, coast guard, public health service, veterans' bureau, or bureau of Indian affairs;

(3) Dental schools or colleges approved under RCW 18.32.040, and the practice of dentistry by students in (~~Washington state~~) accredited dental schools or colleges approved by the commission, when acting under the direction and supervision of Washington state-licensed dental school faculty;

(4) The practice of dentistry by licensed dentists of other states or countries while appearing as clinicians at meetings of the Washington state dental association, or component parts thereof, or at meetings sanctioned by them, or other groups approved by the commission;

(5) The use of roentgen and other rays for making radiographs or similar records of dental or oral tissues, under the supervision of a licensed dentist or physician;

(6) The making, repairing, altering, or supplying of artificial restorations, substitutions, appliances, or materials for the correction of disease, loss, deformity, malposition, dislocation, fracture, injury to the jaws, teeth, lips, gums, cheeks, palate, or associated tissues or parts; providing the same are made, repaired, altered, or supplied pursuant to the written instructions and order of a licensed dentist which may be accompanied by casts, models, or impressions furnished by the dentist, and the prescriptions shall be retained and filed for a period of not less than three years and shall be available to and subject to the examination of the secretary or the secretary's authorized representatives;

(7) The removal of deposits and stains from the surfaces of the teeth, the application of topical preventative or prophylactic agents, and the polishing and smoothing of restorations, when performed or prescribed by a dental hygienist licensed under the laws of this state;

(8) A qualified and licensed physician and surgeon or osteopathic physician and surgeon extracting teeth or performing oral surgery pursuant to the scope of practice under chapter 18.71 or 18.57 RCW;

(9) The performing of dental operations or services by persons not licensed under this chapter when performed under the supervision of a licensed dentist:

PROVIDED HOWEVER, That such nonlicensed person shall in no event perform the following dental operations or services unless permitted to be performed by the person under this chapter or chapters 18.29, 18.57, 18.71, and 18.79 RCW as it applies to registered nurses and advanced registered nurse practitioners:

- (a) Any removal of or addition to the hard or soft tissue of the oral cavity;
- (b) Any diagnosis of or prescription for treatment of disease, pain, deformity, deficiency, injury, or physical condition of the human teeth or jaws, or adjacent structure;
- (c) Any administration of general or injected local anaesthetic of any nature in connection with a dental operation, including intravenous sedation;
- (d) Any oral prophylaxis;
- (e) The taking of any impressions of the teeth or jaw or the relationships of the teeth or jaws, for the purpose of fabricating any intra-oral restoration, appliance, or prosthesis.

Passed by the House March 11, 2003.
 Passed by the Senate April 16, 2003.
 Approved by the Governor May 14, 2003.
 Filed in Office of Secretary of State May 14, 2003.

CHAPTER 283

[Engrossed Substitute Senate Bill 5223]

MENTAL HEALTH ADVANCE DIRECTIVES

AN ACT Relating to mental health advance directives; amending RCW 11.94.010 and 7.70.065; reenacting and amending RCW 9.94A.515 and 9.94A.515; adding a new section to chapter 11.94 RCW; adding a new section to chapter 7.70 RCW; adding a new section to chapter 9A.60 RCW; adding a new chapter to Title 71 RCW; creating a new section; prescribing penalties; providing an effective date; and providing an expiration date.

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

PART I

General Provisions

NEW SECTION. **Sec. 1.** (1) The legislature declares that an individual with capacity has the ability to control decisions relating to his or her own mental health care. The legislature finds that:

- (a) Some mental illnesses cause individuals to fluctuate between capacity and incapacity;
- (b) During periods when an individual's capacity is unclear, the individual may be unable to access needed treatment because the individual may be unable to give informed consent;
- (c) Early treatment may prevent an individual from becoming so ill that involuntary treatment is necessary; and
- (d) Mentally ill individuals need some method of expressing their instructions and preferences for treatment and providing advance consent to or refusal of treatment.

The legislature recognizes that a mental health advance directive can be an essential tool for an individual to express his or her choices at a time when the

effects of mental illness have not deprived him or her of the power to express his or her instructions or preferences.

(2) The legislature further finds that:

(a) A mental health advance directive must provide the individual with a full range of choices;

(b) Mentally ill individuals have varying perspectives on whether they want to be able to revoke a directive during periods of incapacity;

(c) For a mental health advance directive to be an effective tool, individuals must be able to choose how they want their directives treated during periods of incapacity; and

(d) There must be clear standards so that treatment providers can readily discern an individual's treatment choices.

Consequently, the legislature affirms that, pursuant to other provisions of law, a validly executed mental health advance directive is to be respected by agents, guardians, and other surrogate decision makers, health care providers, professional persons, and health care facilities.

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

(1) "Adult" means any individual who has attained the age of majority or is an emancipated minor.

(2) "Agent" has the same meaning as an attorney-in-fact or agent as provided in chapter 11.94 RCW.

(3) "Capacity" means that an adult has not been found to be incapacitated pursuant to this chapter or RCW 11.88.010(1)(e).

(4) "Court" means a superior court under chapter 2.08 RCW.

(5) "Health care facility" means a hospital, as defined in RCW 70.41.020; an institution, as defined in RCW 71.12.455; a state hospital, as defined in RCW 72.23.010; a nursing home, as defined in RCW 18.51.010; or a clinic that is part of a community mental health service delivery system, as defined in RCW 71.24.025.

(6) "Health care provider" means an osteopathic physician or osteopathic physician's assistant licensed under chapter 18.57 or 18.57A RCW, a physician or physician's assistant licensed under chapter 18.71 or 18.71A RCW, or an advanced registered nurse practitioner licensed under RCW 18.79.050.

(7) "Incapacitated" means an adult who: (a) Is unable to understand the nature, character, and anticipated results of proposed treatment or alternatives; understand the recognized serious possible risks, complications, and anticipated benefits in treatments and alternatives, including nontreatment; or communicate his or her understanding or treatment decisions; or (b) has been found to be incompetent pursuant to RCW 11.88.010(1)(e).

(8) "Informed consent" means consent that is given after the person: (a) Is provided with a description of the nature, character, and anticipated results of proposed treatments and alternatives, and the recognized serious possible risks, complications, and anticipated benefits in the treatments and alternatives, including nontreatment, in language that the person can reasonably be expected to understand; or (b) elects not to be given the information included in (a) of this subsection.

(9) "Long-term care facility" has the same meaning as defined in RCW 43.190.020.

(10) "Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on an individual's cognitive or volitional functions.

(11) "Mental health advance directive" or "directive" means a written document in which the principal makes a declaration of instructions or preferences or appoints an agent to make decisions on behalf of the principal regarding the principal's mental health treatment, or both, and that is consistent with the provisions of this chapter.

(12) "Mental health professional" means a psychiatrist, psychologist, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary pursuant to the provisions of chapter 71.05 RCW.

(13) "Principal" means an adult who has executed a mental health advance directive.

(14) "Professional person" means a mental health professional and shall also mean a physician, registered nurse, and such others as may be defined by rules adopted by the secretary pursuant to the provisions of chapter 71.05 RCW.

NEW SECTION. Sec. 3. (1) The definition of informed consent is to be construed to be consistent with that term as it is used in chapter 7.70 RCW.

(2) The definitions of mental disorder, mental health professional, and professional person are to be construed to be consistent with those terms as they are defined in RCW 71.05.020.

NEW SECTION. Sec. 4. For the purposes of this chapter, an adult is presumed to have capacity.

PART II The Document: Creation, Contents, Revocation

NEW SECTION. Sec. 5. (1) An adult with capacity may execute a mental health advance directive.

(2) A directive executed in accordance with this chapter is presumed to be valid. The inability to honor one or more provisions of a directive does not affect the validity of the remaining provisions.

(3) A directive may include any provision relating to mental health treatment or the care of the principal or the principal's personal affairs. Without limitation, a directive may include:

- (a) The principal's preferences and instructions for mental health treatment;
- (b) Consent to specific types of mental health treatment;
- (c) Refusal to consent to specific types of mental health treatment;
- (d) Consent to admission to and retention in a facility for mental health treatment for up to fourteen days;
- (e) Descriptions of situations that may cause the principal to experience a mental health crisis;
- (f) Suggested alternative responses that may supplement or be in lieu of direct mental health treatment, such as treatment approaches from other providers;
- (g) Appointment of an agent pursuant to chapter 11.94 RCW to make mental health treatment decisions on the principal's behalf, including authorizing

the agent to provide consent on the principal's behalf to voluntary admission to inpatient mental health treatment; and

(h) The principal's nomination of a guardian or limited guardian as provided in RCW 11.94.010 for consideration by the court if guardianship proceedings are commenced.

(4) A directive may be combined with or be independent of a nomination of a guardian or other durable power of attorney under chapter 11.94 RCW, so long as the processes for each are executed in accordance with its own statutes.

NEW SECTION. Sec. 6. (1) A directive shall:

(a) Be in writing;

(b) Contain language that clearly indicates that the principal intends to create a directive;

(c) Be dated and signed by the principal or at the principal's direction in the principal's presence if the principal is unable to sign;

(d) Designate whether the principal wishes to be able to revoke the directive during any period of incapacity or wishes to be unable to revoke the directive during any period of incapacity; and

(e) Be witnessed in writing by at least two adults, each of whom shall declare that he or she personally knows the principal, was present when the principal dated and signed the directive, and that the principal did not appear to be incapacitated or acting under fraud, undue influence, or duress.

(2) A directive that includes the appointment of an agent under chapter 11.94 RCW shall contain the words "This power of attorney shall not be affected by the incapacity of the principal," or "This power of attorney shall become effective upon the incapacity of the principal," or similar words showing the principal's intent that the authority conferred shall be exercisable notwithstanding the principal's incapacity.

(3) A directive is valid upon execution, but all or part of the directive may take effect at a later time as designated by the principal in the directive.

(4) A directive may:

(a) Be revoked, in whole or in part, pursuant to the provisions of section 8 of this act; or

(b) Expire under its own terms.

NEW SECTION. Sec. 7. A directive may not:

(1) Create an entitlement to mental health or medical treatment or supersede a determination of medical necessity;

(2) Obligate any health care provider, professional person, or health care facility to pay the costs associated with the treatment requested;

(3) Obligate any health care provider, professional person, or health care facility to be responsible for the nontreatment personal care of the principal or the principal's personal affairs outside the scope of services the facility normally provides;

(4) Replace or supersede the provisions of any will or testamentary document or supersede the provisions of intestate succession;

(5) Be revoked by an incapacitated principal unless that principal selected the option to permit revocation while incapacitated at the time his or her directive was executed; or

(6) Be used as the authority for inpatient admission for more than fourteen days in any twenty-one day period.

NEW SECTION. Sec. 8. (1)(a) A principal with capacity may, by written statement by the principal or at the principal's direction in the principal's presence, revoke a directive in whole or in part.

(b) An incapacitated principal may revoke a directive only if he or she elected at the time of executing the directive to be able to revoke when incapacitated.

(2) The revocation need not follow any specific form so long as it is written and the intent of the principal can be discerned.

(3) The principal shall provide a copy of his or her written statement of revocation to his or her agent, if any, and to each health care provider, professional person, or health care facility that received a copy of the directive from the principal.

(4) The written statement of revocation is effective:

(a) As to a health care provider, professional person, or health care facility, upon receipt. The professional person, health care provider, or health care facility, or persons acting under their direction shall make the statement of revocation part of the principal's medical record; and

(b) As to the principal's agent, upon receipt. The principal's agent shall notify the principal's health care provider, professional person, or health care facility of the revocation and provide them with a copy of the written statement of revocation.

(5) A directive also may:

(a) Be revoked, in whole or in part, expressly or to the extent of any inconsistency, by a subsequent directive; or

(b) Be superseded or revoked by a court order, including any order entered in a criminal matter. A directive may be superseded by a court order regardless of whether the order contains an explicit reference to the directive. To the extent a directive is not in conflict with a court order, the directive remains effective, subject to the provisions of section 15 of this act. A directive shall not be interpreted in a manner that interferes with: (i) Incarceration or detention by the department of corrections, in a city or county jail, or by the department of social and health services; or (ii) treatment of a principal who is subject to involuntary treatment pursuant to chapter 10.77, 70.96A, 71.05, 71.09, or 71.34 RCW.

(6) A directive that would have otherwise expired but is effective because the principal is incapacitated remains effective until the principal is no longer incapacitated unless the principal has elected to be able to revoke while incapacitated and has revoked the directive.

(7) When a principal with capacity consents to treatment that differs from, or refuses treatment consented to in, the provisions of his or her directive, the consent or refusal constitutes a waiver of that provision and does not constitute a revocation of the provision or directive unless the principal also revokes the directive or provision.

NEW SECTION. Sec. 9. A witness may not be any of the following:

(1) A person designated to make health care decisions on the principal's behalf;

(2) A health care provider or professional person directly involved with the provision of care to the principal at the time the directive is executed;

(3) An owner, operator, employee, or relative of an owner or operator of a health care facility or long-term care facility in which the principal is a patient or resident;

(4) A person who is related by blood, marriage, or adoption to the person or with whom the principal has a dating relationship, as defined in RCW 26.50.010;

(5) A person who is declared to be an incapacitated person; or

(6) A person who would benefit financially if the principal making the directive undergoes mental health treatment.

NEW SECTION. Sec. 10. (1) If a directive authorizes the appointment of an agent, the provisions of chapter 11.94 RCW and RCW 7.70.065 shall apply unless otherwise stated in this chapter.

(2) The principal who appoints an agent must notify the agent in writing of the appointment.

(3) An agent must act in good faith.

(4) An agent may make decisions on behalf of the principal. Unless the principal has revoked the directive, the decisions must be consistent with the instructions and preferences the principal has expressed in the directive, or if not expressed, as otherwise known to the agent. If the principal's instructions or preferences are not known, the agent shall make a decision he or she determines is in the best interest of the principal.

(5) Except to the extent the right is limited by the appointment or any federal or state law, the agent has the same right as the principal to receive, review, and authorize the use and disclosure of the principal's health care information when the agent is acting on behalf of the principal and to the extent required for the agent to carry out his or her duties. This subsection shall be construed to be consistent with chapters 70.02, 70.24, 70.96A, 71.05, and 71.34 RCW, and with federal law regarding health care information.

(6) Unless otherwise provided in the appointment and agreed to in writing by the agent, the agent is not, as a result of acting in the capacity of agent, personally liable for the cost of treatment provided to the principal.

(7) An agent may resign or withdraw at any time by giving written notice to the principal. The agent must also give written notice to any health care provider, professional person, or health care facility providing treatment to the principal. The resignation or withdrawal is effective upon receipt unless otherwise specified in the resignation or withdrawal.

(8) If the directive gives the agent authority to act while the principal has capacity, the decisions of the principal supersede those of the agent at any time the principal has capacity.

(9) Unless otherwise provided in the durable power of attorney, the principal may revoke the agent's appointment as provided under other state law.

PART III

Capacity and Process for Incapacitated Persons

NEW SECTION. Sec. 11. (1) For the purposes of this chapter, a principal, agent, professional person, or health care provider may seek a determination whether the principal is incapacitated or has regained capacity.

(2)(a) For the purposes of this chapter, no adult may be declared an incapacitated person except by:

- (i) A court, if the request is made by the principal or the principal's agent;
- (ii) One mental health professional and one health care provider; or
- (iii) Two health care providers.

(b) One of the persons making the determination under (a)(ii) or (iii) of this subsection must be a psychiatrist, psychologist, or a psychiatric advanced registered nurse practitioner.

(3) When a professional person or health care provider requests a capacity determination, he or she shall promptly inform the principal that:

- (a) A request for capacity determination has been made; and
- (b) The principal may request that the determination be made by a court.

(4) At least one mental health professional or health care provider must personally examine the principal prior to making a capacity determination.

(5)(a) When a court makes a determination whether a principal has capacity, the court shall, at a minimum, be informed by the testimony of one mental health professional familiar with the principal and shall, except for good cause, give the principal an opportunity to appear in court prior to the court making its determination.

(b) To the extent that local court rules permit, any party or witness may testify telephonically.

(6) When a court has made a determination regarding a principal's capacity and there is a subsequent change in the principal's condition, subsequent determinations whether the principal is incapacitated may be made in accordance with any of the provisions of subsection (2) of this section.

NEW SECTION. Sec. 12. A principal may bring an action to contest the validity of his or her directive. If an action under this section is commenced while an action to determine the principal's capacity is pending, the court shall consolidate the actions and decide the issues simultaneously.

NEW SECTION. Sec. 13. (1) An initial determination of capacity must be completed within forty-eight hours of a request made by a person authorized in section 11 of this act. During the period between the request for an initial determination of the principal's capacity and completion of that determination, the principal may not be treated unless he or she consents at the time or treatment is otherwise authorized by state or federal law.

(2)(a)(i) When an incapacitated principal is admitted to inpatient treatment pursuant to the provisions of his or her directive, his or her capacity must be reevaluated within seventy-two hours or when there has been a change in the principal's condition that indicates that he or she appears to have regained capacity, whichever occurs first.

(ii) When an incapacitated principal has been admitted to and remains in inpatient treatment for more than seventy-two hours pursuant to the provisions of his or her directive, the principal's capacity must be reevaluated when there has been a change in his or her condition that indicates that he or she appears to have regained capacity.

(iii) When a principal who is being treated on an inpatient basis and has been determined to be incapacitated requests, or his or her agent requests, a

redetermination of the principal's capacity the redetermination must be made within seventy-two hours.

(b) When a principal who has been determined to be incapacitated is being treated on an outpatient basis and there is a request for a redetermination of his or her capacity, the redetermination must be made within five days of the first request following a determination.

(3)(a) When a principal who has appointed an agent for mental health treatment decisions requests a determination or redetermination of capacity, the agent must make reasonable efforts to obtain the determination or redetermination.

(b) When a principal who does not have an agent for mental health treatment decisions is being treated in an inpatient facility and requests a determination or redetermination of capacity, the mental health professional or health care provider must complete the determination or, if the principal is seeking a determination from a court, must make reasonable efforts to notify the person authorized to make decisions for the principal under RCW 7.70.065 of the principal's request.

(c) When a principal who does not have an agent for mental health treatment decisions is being treated on an outpatient basis, the person requesting a capacity determination must arrange for the determination.

(4) If no determination has been made within the time frames established in subsection (1) or (2) of this section, the principal shall be considered to have capacity.

(5) When an incapacitated principal is being treated pursuant to his or her directive, a request for a redetermination of capacity does not prevent treatment.

NEW SECTION. Sec. 14. (1) A principal who:

(a) Chose not to be able to revoke his or her directive during any period of incapacity;

(b) Consented to voluntary admission to inpatient mental health treatment, or authorized an agent to consent on the principal's behalf; and

(c) At the time of admission to inpatient treatment, refuses to be admitted, may only be admitted into inpatient mental health treatment under subsection (2) of this section.

(2) A principal may only be admitted to inpatient mental health treatment under his or her directive if, prior to admission, a physician member of the treating facility's professional staff:

(a) Evaluates the principal's mental condition, including a review of reasonably available psychiatric and psychological history, diagnosis, and treatment needs, and determines, in conjunction with another health care provider or mental health professional, that the principal is incapacitated;

(b) Obtains the informed consent of the agent, if any, designated in the directive;

(c) Makes a written determination that the principal needs an inpatient evaluation or is in need of inpatient treatment and that the evaluation or treatment cannot be accomplished in a less restrictive setting; and

(d) Documents in the principal's medical record a summary of the physician's findings and recommendations for treatment or evaluation.

(3) In the event the admitting physician is not a psychiatrist, the principal shall receive a complete psychological assessment by a mental health

professional within twenty-four hours of admission to determine the continued need for inpatient evaluation or treatment.

(4)(a) If it is determined that the principal has capacity, then the principal may only be admitted to, or remain in, inpatient treatment if he or she consents at the time or is detained under the involuntary treatment provisions of chapter 70.96A, 71.05, or 71.34 RCW.

(b) If a principal who is determined by two health care providers or one mental health professional and one health care provider to be incapacitated continues to refuse inpatient treatment, the principal may immediately seek injunctive relief for release from the facility.

(5) If, at the end of the period of time that the principal or the principal's agent, if any, has consented to voluntary inpatient treatment, but no more than fourteen days after admission, the principal has not regained capacity or has regained capacity but refuses to consent to remain for additional treatment, the principal must be released during reasonable daylight hours, unless detained under chapter 70.96A, 71.05, or 71.34 RCW.

(6)(a) Except as provided in (b) of this subsection, any principal who is voluntarily admitted to inpatient mental health treatment under this chapter shall have all the rights provided to individuals who are voluntarily admitted to inpatient treatment under chapter 71.05, 71.34, or 72.23 RCW.

(b) Notwithstanding RCW 71.05.050 regarding consent to inpatient treatment for a specified length of time, the choices an incapacitated principal expressed in his or her directive shall control, provided, however, that a principal who takes action demonstrating a desire to be discharged, in addition to making statements requesting to be discharged, shall be discharged, and no principal shall be restrained in any way in order to prevent his or her discharge.

(7) Consent to inpatient admission in a directive is effective only while the professional person, health care provider, and health care facility are in substantial compliance with the material provisions of the directive related to inpatient treatment.

PART IV

Provider Responsibilities and Immunities

NEW SECTION. Sec. 15. (1) Upon receiving a directive, a health care provider, professional person, or health care facility providing treatment to the principal, or persons acting under the direction of the health care provider, professional person, or health care facility, shall make the directive a part of the principal's medical record and shall be deemed to have actual knowledge of the directive's contents.

(2) When acting under authority of a directive, a health care provider, professional person, or health care facility shall act in accordance with the provisions of the directive to the fullest extent possible, unless in the determination of the health care provider, professional person, or health care facility:

(a) Compliance with the provision would violate the accepted standard of care established in RCW 7.70.040;

(b) The requested treatment is not available;

(c) Compliance with the provision would violate applicable law; or

(d) It is an emergency situation and compliance would endanger any person's life or health.

(3)(a) In the case of a principal committed or detained under the involuntary treatment provisions of chapter 10.77, 70.96A, 71.05, 71.09, or 71.34 RCW, those provisions of a principal's directive that, in the determination of the health care provider, professional person, or health care facility, are inconsistent with the purpose of the commitment or with any order of the court relating to the commitment are invalid during the commitment.

(b) Remaining provisions of a principal's directive are advisory while the principal is committed or detained.

The treatment provider is encouraged to follow the remaining provisions of the directive, except as provided in (a) of this subsection or subsection (2) of this section.

(4) In the case of a principal who is incarcerated or committed in a state or local correctional facility, provisions of the principal's directive that are inconsistent with reasonable penological objectives or administrative hearings regarding involuntary medication are invalid during the period of incarceration or commitment. In addition, treatment may be given despite refusal of the principal or the provisions of the directive: (a) For any reason under subsection (2) of this section; or (b) if, without the benefit of the specific treatment measure, there is a significant possibility that the person will harm self or others before an improvement of the person's condition occurs.

(5)(a) If the health care provider, professional person, or health care facility is, at the time of receiving the directive, unable or unwilling to comply with any part or parts of the directive for any reason, the health care provider, professional person, or health care facility shall promptly notify the principal and, if applicable, his or her agent and shall document the reason in the principal's medical record.

(b) If the health care provider, professional person, or health care facility is acting under authority of a directive and is unable to comply with any part or parts of the directive for the reasons listed in subsection (2) or (3) of this section, the health care provider, professional person, or health care facility shall promptly notify the principal and if applicable, his or her agent, and shall document the reason in the principal's medical record.

(6) In the event that one or more parts of the directive are not followed because of one or more of the reasons set forth in subsection (2) or (4) of this section, all other parts of the directive shall be followed.

(7) If no provider-patient relationship has previously been established, nothing in this chapter requires the establishment of a provider-patient relationship.

NEW SECTION. Sec. 16. Where a principal consents in a directive to electroconvulsive therapy, the health care provider, professional person, or health care facility, or persons acting under the direction of the health care provider, professional person, or health care facility, shall document the therapy and the reason it was used in the principal's medical record.

NEW SECTION. Sec. 17. (1) For the purposes of this section, "provider" means a private or public agency, government entity, health care provider, professional person, health care facility, or person acting under the direction of a

health care provider or professional person, health care facility, or long-term care facility.

(2) A provider is not subject to civil liability or sanctions for unprofessional conduct under the uniform disciplinary act, chapter 18.130 RCW, when in good faith and without negligence:

(a) The provider provides treatment to a principal in the absence of actual knowledge of the existence of a directive, or provides treatment pursuant to a directive in the absence of actual knowledge of the revocation of the directive;

(b) A health care provider or mental health professional determines that the principal is or is not incapacitated for the purpose of deciding whether to proceed according to a directive, and acts upon that determination;

(c) The provider administers or does not administer mental health treatment according to the principal's directive in good faith reliance upon the validity of the directive and the directive is subsequently found to be invalid;

(d) The provider does not provide treatment according to the directive for one of the reasons authorized under section 15 of this act; or

(e) The provider provides treatment according to the principal's directive.

PART V

Interpretive Provisions

NEW SECTION. Sec. 18. (1) Where an incapacitated principal has executed more than one valid directive and has not revoked any of the directives:

(a) The directive most recently created shall be treated as the principal's mental health treatment preferences and instructions as to any inconsistent or conflicting provisions, unless provided otherwise in either document.

(b) Where a directive executed under this chapter is inconsistent with a directive executed under any other chapter, the most recently created directive controls as to the inconsistent provisions.

(2) Where an incapacitated principal has appointed more than one agent under chapter 11.94 RCW with authority to make mental health treatment decisions, RCW 11.94.010 controls.

(3) The treatment provider shall inquire of a principal whether the principal is subject to any court orders that would affect the implementation of his or her directive.

NEW SECTION. Sec. 19. (1) Directives validly executed before the effective date of this section shall be given full force and effect until revoked, superseded, or expired.

(2) A directive validly executed in another political jurisdiction is valid to the extent permitted by Washington state law.

NEW SECTION. Sec. 20. Any person with reasonable cause to believe that a directive has been created or revoked under circumstances amounting to fraud, duress, or undue influence may petition the court for appointment of a guardian for the person or to review the actions of the agent or person alleged to be involved in improper conduct under RCW 11.94.090 or 74.34.110.

NEW SECTION. Sec. 21. The fact that a person has executed a directive does not constitute an indication of mental disorder or that the person is not capable of providing informed consent.

NEW SECTION. Sec. 22. A person shall not be required to execute or to refrain from executing a directive, nor shall the existence of a directive be used as a criterion for insurance, as a condition for receiving mental or physical health services, or as a condition of admission to or discharge from a health care facility or long-term care facility.

NEW SECTION. Sec. 23. No person or health care facility may use or threaten abuse, neglect, financial exploitation, or abandonment of the principal, as those terms are defined in RCW 74.34.020, to carry out the directive.

NEW SECTION. Sec. 24. A directive does not limit any authority otherwise provided in Title 10, 70, or 71 RCW, or any other applicable state or federal laws to detain a person, take a person into custody, or to admit, retain, or treat a person in a health care facility.

NEW SECTION. Sec. 25. (1) If a principal who is a resident of a long-term care facility is admitted to inpatient mental health treatment pursuant to his or her directive, the principal shall be allowed to be readmitted to the same long-term care facility as if his or her inpatient admission had been for a physical condition on the same basis that the principal would be readmitted under state or federal statute or rule when:

(a) The treating facility's professional staff determine that inpatient mental health treatment is no longer medically necessary for the resident. The determination shall be made in writing by a psychiatrist or by a mental health professional and a physician; or

(b) The person's consent to admission in his or her directive has expired.

(2)(a) If the long-term care facility does not have a bed available at the time of discharge, the treating facility may discharge the resident, in consultation with the resident and agent if any, and in accordance with a medically appropriate discharge plan, to another long-term care facility.

(b) This section shall apply to inpatient mental health treatment admission of long-term care facility residents, regardless of whether the admission is directly from a facility, hospital emergency room, or other location.

(c) This section does not restrict the right of the resident to an earlier release from the inpatient treatment facility. This section does not restrict the right of a long-term care facility to initiate transfer or discharge of a resident who is readmitted pursuant to this section, provided that the facility has complied with the laws governing the transfer or discharge of a resident.

(3) The joint legislative audit and review committee shall conduct an evaluation of the operation and impact of this section. The committee shall report its findings to the appropriate committees of the legislature by December 1, 2004.

PART VI The Form

NEW SECTION. Sec. 26. The directive shall be in substantially the following form:

Mental Health Advance Directive

NOTICE TO PERSONS**CREATING A MENTAL HEALTH ADVANCE DIRECTIVE**

This is an important legal document. It creates an advance directive for mental health treatment. Before signing this document you should know these important facts:

- (1) This document is called an advance directive and allows you to make decisions in advance about your mental health treatment, including medications, short-term admission to inpatient treatment and electroconvulsive therapy.

YOU DO NOT HAVE TO FILL OUT OR SIGN THIS FORM.

IF YOU DO NOT SIGN THIS FORM, IT WILL NOT TAKE EFFECT.

If you choose to complete and sign this document, you may still decide to leave some items blank.

- (2) You have the right to appoint a person as your agent to make treatment decisions for you. You must notify your agent that you have appointed him or her as an agent. The person you appoint has a duty to act consistently with your wishes made known by you. If your agent does not know what your wishes are, he or she has a duty to act in your best interest. Your agent has the right to withdraw from the appointment at any time.
- (3) The instructions you include with this advance directive and the authority you give your agent to act will only become effective under the conditions you select in this document. You may choose to limit this directive and your agent's authority to times when you are incapacitated or to times when you are exhibiting symptoms or behavior that you specify. You may also make this directive effective immediately. No matter when you choose to make this directive effective, your treatment providers must still seek your informed consent at all times that you have capacity to give informed consent.
- (4) You have the right to revoke this document in writing at any time you have capacity.

YOU MAY NOT REVOKE THIS DIRECTIVE WHEN YOU HAVE BEEN FOUND TO BE INCAPACITATED UNLESS YOU HAVE SPECIFICALLY STATED IN THIS DIRECTIVE THAT YOU WANT IT TO BE REVOCABLE WHEN YOU ARE INCAPACITATED.

- (5) This directive will stay in effect until you revoke it unless you specify an expiration date. If you specify an expiration date and you are incapacitated at the time it expires, it will remain in effect until you have capacity to make treatment decisions again unless you chose to be able to revoke it while you are incapacitated and you revoke the directive.

- (6) You cannot use your advance directive to consent to civil commitment. The procedures that apply to your advance directive are different than those provided for in the Involuntary Treatment Act. Involuntary treatment is a different process.
- (7) If there is anything in this directive that you do not understand, you should ask a lawyer to explain it to you.
- (8) You should be aware that there are some circumstances where your provider may not have to follow your directive.
- (9) You should discuss any treatment decisions in your directive with your provider.
- (10) You may ask the court to rule on the validity of your directive.

PART I.

STATEMENT OF INTENT TO CREATE A MENTAL HEALTH ADVANCE DIRECTIVE

I, being a person with capacity, willfully and voluntarily execute this mental health advance directive so that my choices regarding my mental health care will be carried out in circumstances when I am unable to express my instructions and preferences regarding my mental health care. If a guardian is appointed by a court to make mental health decisions for me, I intend this document to take precedence over all other means of ascertaining my intent.

The fact that I may have left blanks in this directive does not affect its validity in any way. I intend that all completed sections be followed. If I have not expressed a choice, my agent should make the decision that he or she determines is in my best interest. I intend this directive to take precedence over any other directives I have previously executed, to the extent that they are inconsistent with this document, or unless I expressly state otherwise in either document.

I understand that I may revoke this directive in whole or in part if I am a person with capacity. I understand that I cannot revoke this directive if a court, two health care providers, or one mental health professional and one health care provider find that I am an incapacitated person, unless, when I executed this directive, I chose to be able to revoke this directive while incapacitated.

I understand that, except as otherwise provided in law, revocation must be in writing. I understand that nothing in this directive, or in my refusal of treatment to which I consent in this directive, authorizes any health care provider, professional person, health care facility, or agent appointed in this directive to use or threaten to use abuse, neglect, financial exploitation, or abandonment to carry out my directive.

I understand that there are some circumstances where my provider may not have to follow my directive.

PART II.

WHEN THIS DIRECTIVE IS EFFECTIVE

YOU MUST COMPLETE THIS PART FOR YOUR DIRECTIVE TO BE VALID.

I intend that this directive become effective (*YOU MUST CHOOSE ONLY ONE*):

- Immediately upon my signing of this directive.
- If I become incapacitated.
- When the following circumstances, symptoms, or behaviors occur: .

PART III.

DURATION OF THIS DIRECTIVE

YOU MUST COMPLETE THIS PART FOR YOUR DIRECTIVE TO BE VALID.

I want this directive to (*YOU MUST CHOOSE ONLY ONE*):

- Remain valid and in effect for an indefinite period of time.
- Automatically expire years from the date it was created.

PART IV.

WHEN I MAY REVOKE THIS DIRECTIVE

YOU MUST COMPLETE THIS PART FOR THIS DIRECTIVE TO BE VALID.

I intend that I be able to revoke this directive (*YOU MUST CHOOSE ONLY ONE*):

- Only when I have capacity.
 I understand that choosing this option means I may only revoke this directive if I have capacity. I further understand that if I choose this option and become incapacitated while this directive is in effect, I may receive treatment that I specify in this directive, even if I object at the time.
- Even if I am incapacitated.
 I understand that choosing this option means that I may revoke this directive even if I am incapacitated. I further understand that if I choose this option and revoke this directive while I am incapacitated I may not receive treatment that I specify in this directive, even if I want the treatment.

PART V.

PREFERENCES AND INSTRUCTIONS ABOUT TREATMENT, FACILITIES, AND PHYSICIANS

A. Preferences and Instructions About Physician(s) to be Involved in My Treatment

I would like the physician(s) named below to be involved in my treatment decisions:

Dr. Contact information:
Dr. Contact information:

I do not wish to be treated by Dr.

B. Preferences and Instructions About Other Providers

I am receiving other treatment or care from providers who I feel have an impact on my mental health care. I would like the following treatment provider(s) to be contacted when this directive is effective:

Name Profession Contact information

Name Profession Contact information

C. Preferences and Instructions About Medications for Psychiatric Treatment *(initial and complete all that apply)*

..... I consent, and authorize my agent (if appointed) to consent, to the following medications:

..... I do not consent, and I do not authorize my agent (if appointed) to consent, to the administration of the following medications:

..... I am willing to take the medications excluded above if my only reason for excluding them is the side effects which include and these side effects can be eliminated by dosage adjustment or other means

..... I am willing to try any other medication the hospital doctor recommends

..... I am willing to try any other medications my outpatient doctor recommends

..... I do not want to try any other medications.

Medication Allergies

I have allergies to, or severe side effects from, the following:

Other Medication Preferences or Instructions

..... I have the following other preferences or instructions about medications

D. Preferences and Instructions About Hospitalization and Alternatives *(initial all that apply and, if desired, rank "1" for first choice, "2" for second choice, and so on)*

..... In the event my psychiatric condition is serious enough to require 24-hour care and I have no physical conditions that require immediate access to emergency medical care, I prefer to receive this care in programs/facilities designed as alternatives to psychiatric hospitalizations.

..... I would also like the interventions below to be tried before hospitalization is considered:

..... Calling someone or having someone call me when needed.

Name: Telephone:

..... Staying overnight with someone

Name: Telephone:

..... Having a mental health service provider come to see me

..... Going to a crisis triage center or emergency room

..... Staying overnight at a crisis respite (temporary) bed

..... Seeing a service provider for help with psychiatric medications

..... Other, specify:

Authority to Consent to Inpatient Treatment

I consent, and authorize my agent (if appointed) to consent, to voluntary admission to inpatient mental health treatment for days (*not to exceed 14 days*)

(Sign one):

..... If deemed appropriate by my agent (if appointed) and treating physician

.....

(Signature)

or

..... Under the following circumstances (specify symptoms, behaviors, or circumstances that indicate the need for hospitalization)

.....

(Signature)

..... I do **not** consent, or authorize my agent (if appointed) to consent, to inpatient treatment

.....

(Signature)

Hospital Preferences and Instructions

If hospitalization is required, I prefer the following hospitals:

.....

I do not consent to be admitted to the following hospitals:

.....

E. Preferences and Instructions About Preemergency

I would like the interventions below to be tried before use of seclusion or restraint is considered

(initial all that apply):

- "Talk me down" one-on-one
- More medication
- Time out/privacy
- Show of authority/force
- Shift my attention to something else
- Set firm limits on my behavior
- Help me to discuss/vent feelings
- Decrease stimulation
- Offer to have neutral person settle dispute
- Other, specify

F. Preferences and Instructions About Seclusion, Restraint, and Emergency Medications

If it is determined that I am engaging in behavior that requires seclusion, physical restraint, and/or emergency use of medication, I prefer these interventions in the order I have chosen (choose "1" for first choice, "2" for second choice, and so on):

- Seclusion
- Seclusion and physical restraint (combined)
- Medication by injection
- Medication in pill or liquid form

In the event that my attending physician decides to use medication in response to an emergency situation after due consideration of my preferences and instructions for emergency treatments stated above, I expect the choice of medication to reflect any preferences and instructions I have expressed in Part III C of this form. The preferences and instructions I express in this section regarding medication in emergency situations do not constitute consent to use of the medication for nonemergency treatment.

G. Preferences and Instructions About Electroconvulsive Therapy (ECT or Shock Therapy)

My wishes regarding electroconvulsive therapy are (sign one):

..... I do not consent, nor authorize my agent (if appointed) to consent, to the administration of electroconvulsive therapy

.....
(Signature)

..... I consent, and authorize my agent (if appointed) to consent, to the administration of electroconvulsive therapy

.....
(Signature)

..... I consent, and authorize my agent (if appointed) to consent, to the administration of electroconvulsive therapy, but only under the following conditions:

.....
(Signature)

H. Preferences and Instructions About Who is Permitted to Visit

If I have been admitted to a mental health treatment facility, the following people are not permitted to visit me there:

Name:

Name:

Name:

I understand that persons not listed above may be permitted to visit me.

I. Additional Instructions About My Mental Health Care

Other instructions about my mental health care:

In case of emergency, please contact:

Name: Address:

Work telephone: Home telephone:

Physician: Address:

Telephone:

The following may help me to avoid a hospitalization:

I generally react to being hospitalized as follows:

Staff of the hospital or crisis unit can help me by doing the following: ...

J. Refusal of Treatment

I do not consent to any mental health treatment.

.....
(Signature)

**PART VI.
DURABLE POWER OF ATTORNEY (APPOINTMENT OF MY
AGENT)**

(Fill out this part only if you wish to appoint an agent or nominate a guardian.)

I authorize an agent to make mental health treatment decisions on my behalf. The authority granted to my agent includes the right to consent, refuse consent, or withdraw consent to any mental health care, treatment, service, or procedure, consistent with any instructions and/or limitations I have set forth in this directive. I intend that those decisions should be made in accordance with my expressed wishes as set forth in this document. If I have not expressed a choice in this document **and my agent does not otherwise know my wishes**, I authorize my agent to make the decision that my agent determines is in my best interest. This agency shall not be affected by my incapacity. Unless I state otherwise in this durable power of attorney, I may revoke it unless prohibited by other state law.

A. Designation of an Agent

I appoint the following person as my agent to make mental health treatment decisions for me as authorized in this document and request that this person be notified immediately when this directive becomes effective:

Name: Address:
Work telephone: Home telephone:
Relationship:

B. Designation of Alternate Agent

If the person named above is unavailable, unable, or refuses to serve as my agent, or I revoke that person's authority to serve as my agent, I hereby appoint the following person as my alternate agent and request that this person be notified immediately when this directive becomes effective or when my original agent is no longer my agent:

Name: Address:
Work telephone: Home telephone:
Relationship:

C. When My Spouse is My Agent (initial if desired)

..... If my spouse is my agent, that person shall remain my agent even if we become legally separated or our marriage is dissolved, unless there is a court order to the contrary or I have remarried.

D. Limitations on My Agent's Authority

I do not grant my agent the authority to consent on my behalf to the following:

E. Limitations on My Ability to Revoke this Durable Power of Attorney

I choose to limit my ability to revoke this durable power of attorney as follows:

F. Preference as to Court-Appointed Guardian

In the event a court appoints a guardian who will make decisions regarding my mental health treatment, I nominate the following person as my guardian:

Name: Address:
Work telephone: Home telephone:
Relationship:

The appointment of a guardian of my estate or my person or any other decision maker shall not give the guardian or decision maker the power to revoke, suspend, or terminate this directive or the powers of my agent, except as authorized by law.

(Signature required if nomination is made)

PART VII. OTHER DOCUMENTS

(Initial all that apply)

I have executed the following documents that include the power to make decisions regarding health care services for myself:

- Health care power of attorney (chapter 11.94 RCW)
..... "Living will" (Health care directive; chapter 70.122 RCW)
..... I have appointed more than one agent. I understand that the most recently appointed agent controls except as stated below:

PART VIII. NOTIFICATION OF OTHERS AND CARE OF PERSONAL AFFAIRS

(Fill out this part only if you wish to provide nontreatment instructions.)

I understand the preferences and instructions in this part are NOT the responsibility of my treatment provider and that no treatment provider is required to act on them.

A. Who Should Be Notified

I desire my agent to notify the following individuals as soon as possible when this directive becomes effective:

Name: Address:
Day telephone: Evening telephone:
Name: Address:

Day telephone: Evening telephone:

B. Preferences or Instructions About Personal Affairs

I have the following preferences or instructions about my personal affairs (e.g., care of dependents, pets, household) if I am admitted to a mental health treatment facility:

.....
.....

C. Additional Preferences and Instructions:

.....
.....
.....

**PART IX.
SIGNATURE**

By signing here, I indicate that I understand the purpose and effect of this document and that I am giving my informed consent to the treatments and/or admission to which I have consented or authorized my agent to consent in this directive. I intend that my consent in this directive be construed as being consistent with the elements of informed consent under chapter 7.70 RCW.

Signature: Date:

Printed Name:

This directive was signed and declared by the "Principal," to be his or her directive, in our presence who, at his or her request, have signed our names below as witnesses. We declare that, at the time of the creation of this instrument, the Principal is personally known to us, and, according to our best knowledge and belief, has capacity at this time and does not appear to be acting under duress, undue influence, or fraud. We further declare that none of us is:

- (A) A person designated to make medical decisions on the principal's behalf;
- (B) A health care provider or professional person directly involved with the provision of care to the principal at the time the directive is executed;
- (C) An owner, operator, employee, or relative of an owner or operator of a health care facility or long-term care facility in which the principal is a patient or resident;
- (D) A person who is related by blood, marriage, or adoption to the person, or with whom the principal has a dating relationship as defined in RCW 26.50.010;
- (E) An incapacitated person;

(F) A person who would benefit financially if the principal undergoes mental health treatment; or

(G) A minor.

Witness 1: Signature: Date:

Printed Name:

Telephone: Address:

Witness 2: Signature: Date:

Printed Name:

Telephone: Address:

PART X.

RECORD OF DIRECTIVE

I have given a copy of this directive to the following persons:

.....

DO NOT FILL OUT PART XI UNLESS YOU INTEND TO REVOKE THIS DIRECTIVE IN PART OR IN WHOLE

PART XI.

REVOCAION OF THIS DIRECTIVE

(Initial any that apply):

..... I am revoking the following part(s) of this directive (specify):

.....

..... I am revoking all of this directive.

By signing here, I indicate that I understand the purpose and effect of my revocation and that no person is bound by any revoked provision(s). I intend this revocation to be interpreted as if I had never completed the revoked provision(s).

Signature: Date:

Printed Name:

DO NOT SIGN THIS PART UNLESS YOU INTEND TO REVOKE THIS DIRECTIVE IN PART OR IN WHOLE

PART VII

Amendatory Sections

Sec. 27. RCW 11.94.010 and 1995 c 297 s 9 are each amended to read as follows:

(1) Whenever a principal designates another as his or her attorney in fact or agent, by a power of attorney in writing, and the writing contains the words "This power of attorney shall not be affected by disability of the principal," or "This power of attorney shall become effective upon the disability of the

principal," or similar words showing the intent of the principal that the authority conferred shall be exercisable notwithstanding the principal's disability, the authority of the attorney in fact or agent is exercisable on behalf of the principal as provided notwithstanding later disability or incapacity of the principal at law or later uncertainty as to whether the principal is dead or alive. All acts done by the attorney in fact or agent pursuant to the power during any period of disability or incompetence or uncertainty as to whether the principal is dead or alive have the same effect and inure to the benefit of and bind the principal or the principal's guardian or heirs, devisees, and personal representative as if the principal were alive, competent, and not disabled. 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 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. If a guardian thereafter is appointed for the principal, the attorney in fact or agent, during the continuance of the appointment, shall account to the guardian rather than the principal. The guardian has the same power the principal would have had if the principal were not disabled or incompetent, to revoke, suspend or terminate all or any part of the power of attorney or agency.

(2) Persons shall place reasonable reliance on any determination of disability or incompetence as provided in the instrument that specifies the time and the circumstances under which the power of attorney document becomes effective.

(3)(a) A principal may authorize his or her attorney-in-fact to provide informed consent for health care decisions on the principal's behalf. If a principal has appointed more than one agent with authority to make mental health treatment decisions in accordance with a directive under chapter 71.-- RCW (sections 1 through 26 of this act), to the extent of any conflict, the most recently appointed agent shall be treated as the principal's agent for mental health treatment decisions unless provided otherwise in either appointment.

(b) Unless he or she is the spouse, or adult child or brother or sister of the principal, none of the following persons may act as the attorney-in-fact for the principal: Any of the principal's physicians, the physicians' employees, or the owners, administrators, or employees of the health care facility or long-term care facility as defined in RCW 43.190.020 where the principal resides or receives care. Except when the principal has consented in a mental health advance directive executed under chapter 71.-- RCW (sections 1 through 26 of this act) to inpatient admission or electroconvulsive therapy, this authorization is subject to the same limitations as those that apply to a guardian under RCW 11.92.043(5) (a) through (c).

NEW SECTION. Sec. 28. A new section is added to chapter 11.94 RCW to read as follows:

No person appointed by a principal as an agent to make mental health treatment decisions pursuant to a mental health advance directive under chapter 71.-- RCW (sections 1 through 26 of this act) shall be compensated for the performance of his or her duties as an agent to make mental health treatment decisions. This section does not prohibit an agent from receiving reimbursement

for reasonable expenses incurred in the performance of his or her duties under chapter 71.-- RCW (sections 1 through 26 of this act).

Sec. 29. RCW 7.70.065 and 1987 c 162 s 1 are each amended to read as follows:

(1) Informed consent for health care for a patient who is not competent, as defined in RCW 11.88.010(1)((b)) (e), to consent may be obtained from a person authorized to consent on behalf of such patient. Persons authorized to provide informed consent to health care on behalf of a patient who is not competent to consent shall be a member of one of the following classes of persons in the following order of priority:

- (a) The appointed guardian of the patient, if any;
- (b) The individual, if any, to whom the patient has given a durable power of attorney that encompasses the authority to make health care decisions;
- (c) The patient's spouse;
- (d) Children of the patient who are at least eighteen years of age;
- (e) Parents of the patient; and
- (f) Adult brothers and sisters of the patient.

(2) If the physician seeking informed consent for proposed health care of the patient who is not competent to consent makes reasonable efforts to locate and secure authorization from a competent person in the first or succeeding class and finds no such person available, authorization may be given by any person in the next class in the order of descending priority. However, no person under this section may provide informed consent to health care:

(a) If a person of higher priority under this section has refused to give such authorization; or

(b) If there are two or more individuals in the same class and the decision is not unanimous among all available members of that class.

(3) Before any person authorized to provide informed consent on behalf of a patient not competent to consent exercises that authority, the person must first determine in good faith that that patient, if competent, would consent to the proposed health care. If such a determination cannot be made, the decision to consent to the proposed health care may be made only after determining that the proposed health care is in the patient's best interests.

NEW SECTION. Sec. 30. A new section is added to chapter 7.70 RCW to read as follows:

Consent to treatment or admission contained in a validly executed mental health advance directive constitutes informed consent for purposes of this chapter.

NEW SECTION. Sec. 31. A new section is added to chapter 9A.60 RCW to read as follows:

(1) For purposes of this section "mental health advance directive" means a written document that is a "mental health advance directive" as defined in section 2 of this act.

(2) A person is guilty of fraudulent creation or revocation of a mental health advance directive if he or she knowingly:

(a) Makes, completes, alters, or revokes the mental health advance directive of another without the principal's consent;

(b) Utters, offers, or puts off as true a mental health advance directive that he or she knows to be forged; or

(c) Obtains or prevents the signature of a principal or witness to a mental health advance directive by deception or duress.

(3) Fraudulent creation or revocation of a mental health advance directive is a class C felony.

Sec. 32. RCW 9.94A.515 and 2002 c 340 s 2, 2002 c 324 s 2, 2002 c 290 s 2, 2002 c 253 s 4, 2002 c 229 s 2, 2002 c 134 s 2, and 2002 c 133 s 4 are each reenacted and amended to read as follows:

TABLE 2	
CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL	
XVI	Aggravated Murder 1 (RCW 10.95.020)
XV	Homicide by abuse (RCW 9A.32.055)
	Malicious explosion 1 (RCW 70.74.280(1))
	Murder 1 (RCW 9A.32.030)
XIV	Murder 2 (RCW 9A.32.050)
XIII	Malicious explosion 2 (RCW 70.74.280(2))
	Malicious placement of an explosive 1 (RCW 70.74.270(1))
XII	Assault 1 (RCW 9A.36.011)
	Assault of a Child 1 (RCW 9A.36.120)
	Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a))
	Rape 1 (RCW 9A.44.040)
	Rape of a Child 1 (RCW 9A.44.073)
XI	Manslaughter 1 (RCW 9A.32.060)
	Rape 2 (RCW 9A.44.050)
	Rape of a Child 2 (RCW 9A.44.076)
X	Child Molestation 1 (RCW 9A.44.083)
	Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))
	Kidnapping 1 (RCW 9A.40.020)
	Leading Organized Crime (RCW 9A.82.060(1)(a))
	Malicious explosion 3 (RCW 70.74.280(3))

- Manufacture of methamphetamine
(RCW 69.50.401(a)(1)(ii))
- Over 18 and deliver heroin,
methamphetamine, a narcotic from
Schedule I or II, or flunitrazepam
from Schedule IV to someone under
18 (RCW 69.50.406)
- Sexually Violent Predator Escape (RCW
9A.76.115)
- IX Assault of a Child 2 (RCW 9A.36.130)
- Controlled Substance Homicide (RCW
69.50.415)
- Explosive devices prohibited (RCW
70.74.180)
- Hit and Run—Death (RCW
46.52.020(4)(a))
- Homicide by Watercraft, by being under
the influence of intoxicating liquor
or any drug (RCW 79A.60.050)
- Inciting Criminal Profiteering (RCW
9A.82.060(1)(b))
- Malicious placement of an explosive 2
(RCW 70.74.270(2))
- Over 18 and deliver narcotic from
Schedule III, IV, or V or a
nonnarcotic, except flunitrazepam
or methamphetamine, from
Schedule I-V to someone under 18
and 3 years junior (RCW 69.50.406)
- Robbery 1 (RCW 9A.56.200)
- Sexual Exploitation (RCW 9.68A.040)
- Vehicular Homicide, by being under the
influence of intoxicating liquor or
any drug (RCW 46.61.520)
- VIII Arson 1 (RCW 9A.48.020)
- Deliver or possess with intent to deliver
methamphetamine (RCW
69.50.401(a)(1)(ii))
- Homicide by Watercraft, by the
operation of any vessel in a reckless
manner (RCW 79A.60.050)

- Manslaughter 2 (RCW 9A.32.070)
- Manufacture, deliver, or possess with intent to deliver amphetamine (RCW 69.50.401(a)(1)(ii))
- Manufacture, deliver, or possess with intent to deliver heroin or cocaine (when the offender has a criminal history in this state or any other state that includes a sex offense or serious violent offense or the Washington equivalent) (RCW 69.50.401(a)(1)(i))
- Possession of Ephedrine or any of its Salts or Isomers or Salts of Isomers, Pseudoephedrine or any of its Salts or Isomers or Salts of Isomers, Pressurized Ammonia Gas, or Pressurized Ammonia Gas Solution with intent to manufacture methamphetamine (RCW 69.50.440)
- Promoting Prostitution 1 (RCW 9A.88.070)
- Selling for profit (controlled or counterfeit) any controlled substance (RCW 69.50.410)
- Theft of Ammonia (RCW 69.55.010)
- Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)
- VII Burglary 1 (RCW 9A.52.020)
- Child Molestation 2 (RCW 9A.44.086)
- Civil Disorder Training (RCW 9A.48.120)
- Dealing in depictions of minor engaged in sexually explicit conduct (RCW 9.68A.050)
- Drive-by Shooting (RCW 9A.36.045)
- Homicide by Watercraft, by disregard for the safety of others (RCW 79A.60.050)

- Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1)(b) and (c))
- Introducing Contraband 1 (RCW 9A.76.140)
- Involving a minor in drug dealing (RCW 69.50.401(f))
- Malicious placement of an explosive 3 (RCW 70.74.270(3))
- Manufacture, deliver, or possess with intent to deliver heroin or cocaine (except when the offender has a criminal history in this state or any other state that includes a sex offense or serious violent offense or the Washington equivalent) (RCW 69.50.401(a)(1)(i))
- Sending, bringing into state depictions of minor engaged in sexually explicit conduct (RCW 9.68A.060)
- Unlawful Possession of a Firearm in the first degree (RCW 9.41.040(1)(a))
- Use of a Machine Gun in Commission of a Felony (RCW 9.41.225)
- Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)
- VI Bail Jumping with Murder 1 (RCW 9A.76.170(3)(a))
- Bribery (RCW 9A.68.010)
- Incest 1 (RCW 9A.64.020(1))
- Intimidating a Judge (RCW 9A.72.160)
- Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)
- Malicious placement of an imitation device 2 (RCW 70.74.272(1)(b))
- Manufacture, deliver, or possess with intent to deliver narcotics from Schedule I or II (except heroin or cocaine) or flunitrazepam from Schedule IV (RCW 69.50.401(a)(1)(i))

- Rape of a Child 3 (RCW 9A.44.079)
- Theft of a Firearm (RCW 9A.56.300)
- Unlawful Storage of Ammonia (RCW 69.55.020)
- V Abandonment of dependent person 1 (RCW 9A.42.060)
 - Advancing money or property for extortionate extension of credit (RCW 9A.82.030)
 - Bail Jumping with class A Felony (RCW 9A.76.170(3)(b))
 - Child Molestation 3 (RCW 9A.44.089)
 - Criminal Mistreatment 1 (RCW 9A.42.020)
 - Custodial Sexual Misconduct 1 (RCW 9A.44.160)
 - Delivery of imitation controlled substance by person eighteen or over to person under eighteen (RCW 69.52.030(2))
 - Domestic Violence Court Order Violation (RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or 74.34.145)
 - Extortion 1 (RCW 9A.56.120)
 - Extortionate Extension of Credit (RCW 9A.82.020)
 - Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)
 - Incest 2 (RCW 9A.64.020(2))
 - Kidnapping 2 (RCW 9A.40.030)
 - Perjury 1 (RCW 9A.72.020)
 - Persistent prison misbehavior (RCW 9.94.070)
 - Possession of a Stolen Firearm (RCW 9A.56.310)
 - Rape 3 (RCW 9A.44.060)

- Rendering Criminal Assistance 1 (RCW 9A.76.070)
- Sexual Misconduct with a Minor 1 (RCW 9A.44.093)
- Sexually Violating Human Remains (RCW 9A.44.105)
- Stalking (RCW 9A.46.110)
- Taking Motor Vehicle Without Permission 1 (RCW 9A.56.070(1))
- IV Arson 2 (RCW 9A.48.030)
- Assault 2 (RCW 9A.36.021)
- Assault by Watercraft (RCW 79A.60.060)
- Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)
- Cheating 1 (RCW 9.46.1961)
- Commercial Bribery (RCW 9A.68.060)
- Counterfeiting (RCW 9.16.035(4))
- Endangerment with a Controlled Substance (RCW 9A.42.100)
- Escape 1 (RCW 9A.76.110)
- Hit and Run—Injury (RCW 46.52.020(4)(b))
- Hit and Run with Vessel—Injury Accident (RCW 79A.60.200(3))
- Identity Theft 1 (RCW 9.35.020(2)(a))
- Indecent Exposure to Person Under Age Fourteen (subsequent sex offense) (RCW 9A.88.010)
- Influencing Outcome of Sporting Event (RCW 9A.82.070)
- Knowingly Trafficking in Stolen Property (RCW 9A.82.050(2))
- Malicious Harassment (RCW 9A.36.080)

- Manufacture, deliver, or possess with intent to deliver narcotics from Schedule III, IV, or V or nonnarcotics from Schedule I-V (except marijuana, amphetamine, methamphetamines, or flunitrazepam) (RCW 69.50.401(a)(1) (iii) through (v))
- Residential Burglary (RCW 9A.52.025)
- Robbery 2 (RCW 9A.56.210)
- Theft of Livestock 1 (RCW 9A.56.080)
- Threats to Bomb (RCW 9.61.160)
- Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))
- Vehicular Assault, by being under the influence of intoxicating liquor or any drug, or by the operation or driving of a vehicle in a reckless manner (RCW 46.61.522)
- Willful Failure to Return from Furlough (RCW 72.66.060)
- III Abandonment of dependent person 2 (RCW 9A.42.070)
 - Assault 3 (RCW 9A.36.031)
 - Assault of a Child 3 (RCW 9A.36.140)
 - Bail Jumping with class B or C Felony (RCW 9A.76.170(3)(c))
 - Burglary 2 (RCW 9A.52.030)
 - Communication with a Minor for Immoral Purposes (RCW 9.68A.090)
 - Criminal Gang Intimidation (RCW 9A.46.120)
 - Criminal Mistreatment 2 (RCW 9A.42.030)
 - Custodial Assault (RCW 9A.36.100)
 - Delivery of a material in lieu of a controlled substance (RCW 69.50.401(c))
 - Escape 2 (RCW 9A.76.120)

- Extortion 2 (RCW 9A.56.130)
- Harassment (RCW 9A.46.020)
- Intimidating a Public Servant (RCW 9A.76.180)
- Introducing Contraband 2 (RCW 9A.76.150)
- Maintaining a Dwelling or Place for Controlled Substances (RCW 69.50.402(a)(6))
- Malicious Injury to Railroad Property (RCW 81.60.070)
- Manufacture, deliver, or possess with intent to deliver marijuana (RCW 69.50.401(a)(1)(iii))
- Manufacture, distribute, or possess with intent to distribute an imitation controlled substance (RCW 69.52.030(1))
- Patronizing a Juvenile Prostitute (RCW 9.68A.100)
- Perjury 2 (RCW 9A.72.030)
- Possession of Incendiary Device (RCW 9.40.120)
- Possession of Machine Gun or Short-Barreled Shotgun or Rifle (RCW 9.41.190)
- Promoting Prostitution 2 (RCW 9A.88.080)
- Recklessly Trafficking in Stolen Property (RCW 9A.82.050(1))
- Securities Act violation (RCW 21.20.400)
- Tampering with a Witness (RCW 9A.72.120)
- Telephone Harassment (subsequent conviction or threat of death) (RCW 9.61.230)
- Theft of Livestock 2 (RCW 9A.56.080)
- Unlawful Imprisonment (RCW 9A.40.040)

- Unlawful possession of firearm in the second degree (RCW 9.41.040(1)(b))
- Unlawful Use of Building for Drug Purposes (RCW 69.53.010)
- Vehicular Assault, by the operation or driving of a vehicle with disregard for the safety of others (RCW 46.61.522)
- Willful Failure to Return from Work Release (RCW 72.65.070)
- II Computer Trespass 1 (RCW 9A.52.110)
- Counterfeiting (RCW 9.16.035(3))
- Create, deliver, or possess a counterfeit controlled substance (RCW 69.50.401(b))
- Escape from Community Custody (RCW 72.09.310)
- Health Care False Claims (RCW 48.80.030)
- Identity Theft 2 (RCW 9.35.020(2)(b))
- Improperly Obtaining Financial Information (RCW 9.35.010)
- Malicious Mischief 1 (RCW 9A.48.070)
- Possession of controlled substance that is either heroin or narcotics from Schedule I or II or flunitrazepam from Schedule IV (RCW 69.50.401(d))
- Possession of phencyclidine (PCP) (RCW 69.50.401(d))
- Possession of Stolen Property 1 (RCW 9A.56.150)
- Theft 1 (RCW 9A.56.030)
- Theft of Rental, Leased, or Lease-purchased Property (valued at one thousand five hundred dollars or more) (RCW 9A.56.096(4))
- Trafficking in Insurance Claims (RCW 48.30A.015)

- Unlawful Practice of Law (RCW 2.48.180)
- Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))
- I Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)
- False Verification for Welfare (RCW 74.08.055)
- Forged Prescription (RCW 69.41.020)
- Forged Prescription for a Controlled Substance (RCW 69.50.403)
- Forgery (RCW 9A.60.020)
- Fraudulent Creation or Revocation of a Mental Health Advance Directive (section 31 of this act)
- Malicious Mischief 2 (RCW 9A.48.080)
- Possess Controlled Substance that is a Narcotic from Schedule III, IV, or V or Non-narcotic from Schedule I-V (except phencyclidine or flunitrazepam) (RCW 69.50.401(d))
- Possession of Stolen Property 2 (RCW 9A.56.160)
- Reckless Burning 1 (RCW 9A.48.040)
- Taking Motor Vehicle Without Permission 2 (RCW 9A.56.070(2))
- Theft 2 (RCW 9A.56.040)
- Theft of Rental, Leased, or Lease-purchased Property (valued at two hundred fifty dollars or more but less than one thousand five hundred dollars) (RCW 9A.56.096(4))
- Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)
- Unlawful Use of Food Stamps (RCW 9.91.140 (2) and (3))
- Vehicle Prowl 1 (RCW 9A.52.095)

Sec. 33. RCW 9.94A.515 and 2002 c 340 s 2, 2002 c 324 s 2, 2002 c 290 s 7, 2002 c 253 s 4, 2002 c 229 s 2, 2002 c 134 s 2, and 2002 c 133 s 4 are each reenacted and amended to read as follows:

TABLE 2
CRIMES INCLUDED WITHIN EACH
SERIOUSNESS LEVEL

- XVI Aggravated Murder 1 (RCW 10.95.020)
- XV Homicide by abuse (RCW 9A.32.055)
Malicious explosion 1 (RCW
70.74.280(1))
Murder 1 (RCW 9A.32.030)
- XIV Murder 2 (RCW 9A.32.050)
- XIII Malicious explosion 2 (RCW
70.74.280(2))
Malicious placement of an explosive 1
(RCW 70.74.270(1))
- XII Assault 1 (RCW 9A.36.011)
Assault of a Child 1 (RCW 9A.36.120)
Malicious placement of an imitation
device 1 (RCW 70.74.272(1)(a))
Rape 1 (RCW 9A.44.040)
Rape of a Child 1 (RCW 9A.44.073)
- XI Manslaughter 1 (RCW 9A.32.060)
Rape 2 (RCW 9A.44.050)
Rape of a Child 2 (RCW 9A.44.076)
- X Child Molestation 1 (RCW 9A.44.083)
Indecent Liberties (with forcible
compulsion) (RCW
9A.44.100(1)(a))
Kidnapping 1 (RCW 9A.40.020)
Leading Organized Crime (RCW
9A.82.060(1)(a))
Malicious explosion 3 (RCW
70.74.280(3))
Sexually Violent Predator Escape (RCW
9A.76.115)
- IX Assault of a Child 2 (RCW 9A.36.130)
Explosive devices prohibited (RCW
70.74.180)
Hit and Run—Death (RCW
46.52.020(4)(a))

- Homicide by Watercraft, by being under the influence of intoxicating liquor or any drug (RCW 79A.60.050)
- Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))
- Malicious placement of an explosive 2 (RCW 70.74.270(2))
- Robbery 1 (RCW 9A.56.200)
- Sexual Exploitation (RCW 9.68A.040)
- Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)
- VIII Arson 1 (RCW 9A.48.020)
 - Homicide by Watercraft, by the operation of any vessel in a reckless manner (RCW 79A.60.050)
 - Manslaughter 2 (RCW 9A.32.070)
 - Promoting Prostitution 1 (RCW 9A.88.070)
 - Theft of Ammonia (RCW 69.55.010)
 - Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)
- VII Burglary 1 (RCW 9A.52.020)
 - Child Molestation 2 (RCW 9A.44.086)
 - Civil Disorder Training (RCW 9A.48.120)
 - Dealing in depictions of minor engaged in sexually explicit conduct (RCW 9.68A.050)
 - Drive-by Shooting (RCW 9A.36.045)
 - Homicide by Watercraft, by disregard for the safety of others (RCW 79A.60.050)
 - Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1)(b) and (c))
 - Introducing Contraband 1 (RCW 9A.76.140)

- Malicious placement of an explosive 3
(RCW 70.74.270(3))
- Sending, bringing into state depictions of
minor engaged in sexually explicit
conduct (RCW 9.68A.060)
- Unlawful Possession of a Firearm in the
first degree (RCW 9.41.040(1)(a))
- Use of a Machine Gun in Commission of
a Felony (RCW 9.41.225)
- Vehicular Homicide, by disregard for the
safety of others (RCW 46.61.520)
- VI Bail Jumping with Murder 1 (RCW
9A.76.170(3)(a))
- Bribery (RCW 9A.68.010)
- Incest 1 (RCW 9A.64.020(1))
- Intimidating a Judge (RCW 9A.72.160)
- Intimidating a Juror/Witness (RCW
9A.72.110, 9A.72.130)
- Malicious placement of an imitation
device 2 (RCW 70.74.272(1)(b))
- Rape of a Child 3 (RCW 9A.44.079)
- Theft of a Firearm (RCW 9A.56.300)
- Unlawful Storage of Ammonia (RCW
69.55.020)
- V Abandonment of dependent person 1
(RCW 9A.42.060)
- Advancing money or property for
extortionate extension of credit
(RCW 9A.82.030)
- Bail Jumping with class A Felony (RCW
9A.76.170(3)(b))
- Child Molestation 3 (RCW 9A.44.089)
- Criminal Mistreatment 1 (RCW
9A.42.020)
- Custodial Sexual Misconduct 1 (RCW
9A.44.160)

- Domestic Violence Court Order
Violation (RCW 10.99.040,
10.99.050, 26.09.300, 26.10.220,
26.26.138, 26.50.110, 26.52.070, or
74.34.145)
- Extortion 1 (RCW 9A.56.120)
- Extortionate Extension of Credit (RCW
9A.82.020)
- Extortionate Means to Collect
Extensions of Credit (RCW
9A.82.040)
- Incest 2 (RCW 9A.64.020(2))
- Kidnapping 2 (RCW 9A.40.030)
- Perjury 1 (RCW 9A.72.020)
- Persistent prison misbehavior (RCW
9.94.070)
- Possession of a Stolen Firearm (RCW
9A.56.310)
- Rape 3 (RCW 9A.44.060)
- Rendering Criminal Assistance 1 (RCW
9A.76.070)
- Sexual Misconduct with a Minor 1
(RCW 9A.44.093)
- Sexually Violating Human Remains
(RCW 9A.44.105)
- Stalking (RCW 9A.46.110)
- Taking Motor Vehicle Without
Permission 1 (RCW 9A.56.070(1))
- 1V Arson 2 (RCW 9A.48.030)
- Assault 2 (RCW 9A.36.021)
- Assault by Watercraft (RCW
79A.60.060)
- Bribing a Witness/Bribe Received by
Witness (RCW 9A.72.090,
9A.72.100)
- Cheating 1 (RCW 9.46.1961)
- Commercial Bribery (RCW 9A.68.060)
- Counterfeiting (RCW 9.16.035(4))

- Endangerment with a Controlled Substance (RCW 9A.42.100)
- Escape 1 (RCW 9A.76.110)
- Hit and Run—Injury (RCW 46.52.020(4)(b))
- Hit and Run with Vessel—Injury Accident (RCW 79A.60.200(3))
- Identity Theft 1 (RCW 9.35.020(2)(a))
- Indecent Exposure to Person Under Age Fourteen (subsequent sex offense) (RCW 9A.88.010)
- Influencing Outcome of Sporting Event (RCW 9A.82.070)
- Knowingly Trafficking in Stolen Property (RCW 9A.82.050(2))
- Malicious Harassment (RCW 9A.36.080)
- Residential Burglary (RCW 9A.52.025)
- Robbery 2 (RCW 9A.56.210)
- Theft of Livestock 1 (RCW 9A.56.080)
- Threats to Bomb (RCW 9.61.160)
- Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))
- Vehicular Assault, by being under the influence of intoxicating liquor or any drug, or by the operation or driving of a vehicle in a reckless manner (RCW 46.61.522)
- Willful Failure to Return from Furlough (RCW 72.66.060)
- III Abandonment of dependent person 2 (RCW 9A.42.070)
 - Assault 3 (RCW 9A.36.031)
 - Assault of a Child 3 (RCW 9A.36.140)
 - Bail Jumping with class B or C Felony (RCW 9A.76.170(3)(c))
 - Burglary 2 (RCW 9A.52.030)
 - Communication with a Minor for Immoral Purposes (RCW 9.68A.090)

- Criminal Gang Intimidation (RCW 9A.46.120)
- Criminal Mistreatment 2 (RCW 9A.42.030)
- Custodial Assault (RCW 9A.36.100)
- Escape 2 (RCW 9A.76.120)
- Extortion 2 (RCW 9A.56.130)
- Harassment (RCW 9A.46.020)
- Intimidating a Public Servant (RCW 9A.76.180)
- Introducing Contraband 2 (RCW 9A.76.150)
- Malicious Injury to Railroad Property (RCW 81.60.070)
- Patronizing a Juvenile Prostitute (RCW 9.68A.100)
- Perjury 2 (RCW 9A.72.030)
- Possession of Incendiary Device (RCW 9.40.120)
- Possession of Machine Gun or Short-Barreled Shotgun or Rifle (RCW 9.41.190)
- Promoting Prostitution 2 (RCW 9A.88.080)
- Recklessly Trafficking in Stolen Property (RCW 9A.82.050(1))
- Securities Act violation (RCW 21.20.400)
- Tampering with a Witness (RCW 9A.72.120)
- Telephone Harassment (subsequent conviction or threat of death) (RCW 9.61.230)
- Theft of Livestock 2 (RCW 9A.56.080)
- Unlawful Imprisonment (RCW 9A.40.040)
- Unlawful possession of firearm in the second degree (RCW 9.41.040(1)(b))

- Vehicular Assault, by the operation or driving of a vehicle with disregard for the safety of others (RCW 46.61.522)
- Willful Failure to Return from Work Release (RCW 72.65.070)
- II Computer Trespass 1 (RCW 9A.52.110)
- Counterfeiting (RCW 9.16.035(3))
- Escape from Community Custody (RCW 72.09.310)
- Health Care False Claims (RCW 48.80.030)
- Identity Theft 2 (RCW 9.35.020(2)(b))
- Improperly Obtaining Financial Information (RCW 9.35.010)
- Malicious Mischief I (RCW 9A.48.070)
- Possession of Stolen Property 1 (RCW 9A.56.150)
- Theft 1 (RCW 9A.56.030)
- Theft of Rental, Leased, or Lease-purchased Property (valued at one thousand five hundred dollars or more) (RCW 9A.56.096(4))
- Trafficking in Insurance Claims (RCW 48.30A.015)
- Unlawful Practice of Law (RCW 2.48.180)
- Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))
- I Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)
- False Verification for Welfare (RCW 74.08.055)
- Forgery (RCW 9A.60.020)
- Fraudulent Creation or Revocation of a Mental Health Advance Directive (section 31 of this act)
- Malicious Mischief 2 (RCW 9A.48.080)
- Possession of Stolen Property 2 (RCW 9A.56.160)

- Reckless Burning 1 (RCW 9A.48.040)
- Taking Motor Vehicle Without
Permission 2 (RCW 9A.56.070(2))
- Theft 2 (RCW 9A.56.040)
- Theft of Rental, Leased, or Lease-
purchased Property (valued at two
hundred fifty dollars or more but
less than one thousand five hundred
dollars) (RCW 9A.56.096(4))
- Unlawful Issuance of Checks or Drafts
(RCW 9A.56.060)
- Unlawful Use of Food Stamps (RCW
9.91.140 (2) and (3))
- Vehicle Prowl 1 (RCW 9A.52.095)

PART VIII
Miscellaneous Provisions

NEW SECTION. Sec. 34. Sections 1 through 26 of this act constitute a new chapter in Title 71 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.

NEW SECTION. Sec. 36. Section 32 of this act expires July 1, 2004.

NEW SECTION. Sec. 37. Section 33 of this act takes effect July 1, 2004.

NEW SECTION. Sec. 38. Part headings used in this act are not any part of the law.

- Passed by the Senate March 10, 2003.
- Passed by the House April 14, 2003.
- Approved by the Governor May 14, 2003.
- Filed in Office of Secretary of State May 14, 2003.

CHAPTER 284

[Substitute House Bill 1233]

KINSHIP CARE

AN ACT Relating to improving services for kinship caregivers; adding new sections to chapter 74.13 RCW; creating new sections; and providing expiration dates.

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

NEW SECTION. Sec. 1. A new section is added to chapter 74.13 RCW to read as follows:

(1) For the purposes of this section, "kin" means persons eighteen years of age or older to whom the child is related by blood, adoption, or marriage, including marriages that have been dissolved, and means: (a) Any person

denoted by the prefix "grand" or "great"; (b) sibling, whether full, half, or step; (c) uncle or aunt; (d) nephew or niece; or (e) first cousin.

(2) The department shall plan, design, and implement strategies to prioritize the placement of children with willing and able kin when out-of-home placement is required.

These strategies must include at least the following:

(a) Development of standardized, statewide procedures to be used when searching for kin of children prior to out-of-home placement. The procedures must include a requirement that documentation be maintained in the child's case record that identifies kin, and documentation that identifies the assessment criteria and procedures that were followed during all kin searches. The procedures must be used when a child is placed in out-of-home care under authority of chapter 13.34 RCW, when a petition is filed under RCW 13.32A.140, or when a child is placed under a voluntary placement agreement. To assist with implementation of the procedures, the department shall request that the juvenile court require parents to disclose to the department all contact information for available and appropriate kin within two weeks of an entered order. For placements under signed voluntary agreements, the department shall encourage the parents to disclose to the department all contact information for available and appropriate kin within two weeks of the date the parent signs the voluntary placement agreement.

(b) Development of procedures for conducting active outreach efforts to identify and locate kin during all searches. The procedures must include at least the following elements:

(i) Reasonable efforts to interview known kin, friends, teachers, and other identified community members who may have knowledge of the child's kin, within sixty days of the child entering out-of-home care;

(ii) Increased use of those procedures determined by research to be the most effective methods of promoting reunification efforts, permanency planning, and placement decisions;

(iii) Contacts with kin identified through outreach efforts and interviews under this subsection as part of permanency planning activities and change of placement discussions;

(iv) Establishment of a process for ongoing contact with kin who express interest in being considered as a placement resource for the child; and

(v) A requirement that when the decision is made to not place the child with any kin, the department provides documentation as part of the child's individual service and safety plan that clearly identifies the rationale for the decision and corrective action or actions the kin must take to be considered as a viable placement option.

(3) Nothing in this section shall be construed to create an entitlement to services or to create judicial authority to order the provision of services to any person or family if the services are unavailable or unsuitable or the child or family is not eligible for such services.

NEW SECTION. Sec. 2. (1) The department of social and health services shall collaborate with one or more nonprofit community-based agencies to develop a grant proposal for submission to potential funding sources, including governmental entities and private foundations, to establish a minimum of two pilot projects to assist kinship caregivers with understanding and navigating the

system of services for children in out-of-home care. The proposal must seek to establish at least one project in eastern Washington and one project in western Washington, each project to be managed by a participating community-based agency.

(2) The kinship care navigators funded through the proposal shall be responsible for at least the following:

(a) Understanding the various state agency systems serving kinship caregivers;

(b) Working in partnership with local community service providers;

(c) Tracking trends, concerns, and other factors related to kinship caregivers; and

(d) Assisting in establishing stable, respectful relationships between kinship caregivers and department staff.

(3) Implementation of the kinship care navigator pilot projects is contingent upon receipt of nonstate or private funding for that purpose.

(4) For the purposes of this section, "kinship" has the same meaning as "kin" given in section 1(1) of this act.

(5) This section expires January 1, 2007.

****NEW SECTION. Sec. 3. (1) The department of social and health services shall report to the legislature and the governor on the implementation of the kinship care navigator pilot projects with recommendations on statewide implementation of the pilot projects one year following implementation of the pilot projects. The report shall: Include data that demonstrates whether the pilot project reduced actual barriers to access to services; identify statutory and administrative barriers for kin who give care; and recommend ways to reduce or eliminate the barriers without adverse consequences to children placed with kin.***

(2) This section expires January 1, 2007.

****Sec. 3 was vetoed. See message at end of chapter.***

NEW SECTION. Sec. 4. A new section is added to chapter 74.13 RCW to read as follows:

(1) Within existing resources, the department shall establish an oversight committee to monitor, guide, and report on kinship care recommendations and implementation activities. The committee shall:

(a) Draft a kinship care definition that is restricted to persons related by blood or marriage, including marriages that have been dissolved, or for a minor defined as an "Indian child" under the federal Indian child welfare act (25 U.S.C. Sec. 1901 et seq.), the definition of "extended family member" under the federal Indian child welfare act, and a set of principles. If the committee concludes that one or more program or service would be more efficiently and effectively delivered under a different definition of kin, it shall state what definition is needed, and identify the program or service in the report. It shall also provide evidence of how the program or service will be more efficiently and effectively delivered under the different definition. The department shall not adopt rules or policies changing the definition of kin without authorizing legislation;

(b) Monitor the implementation of recommendations contained in the 2002 kinship care report;

(c) Partner with nonprofit organizations and private sector businesses to guide a public education awareness campaign; and

- (d) Assist with developing future recommendations on kinship care issues.
- (2) The oversight committee must consist of a minimum of thirty percent kinship caregivers, who shall represent a diversity of kinship families. Statewide representation with geographic, ethnic, and gender diversity is required. Other members shall include representatives of the department, representatives of relevant state agencies, representatives of the private nonprofit and business sectors, child advocates, representatives of Washington state Indian tribes as defined under the federal Indian welfare act (25 U.S.C. Sec. 1901 et seq.), and representatives of the legal or judicial field. Birth parents, foster parents, and others who have an interest in these issues may also be included.
- (3) To the extent funding is available, the department may reimburse nondepartmental members of the oversight committee for costs incurred in participating in the meetings of the oversight committee.
- (4) The kinship care oversight committee shall report to the legislature and the governor on the status of kinship care issues by December 1, 2004.
- (5) This section expires January 1, 2005.

Passed by the House April 26, 2003.

Passed by the Senate April 25, 2003.

Approved by the Governor May 14, 2003, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 14, 2003.

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

"I am returning herewith, without my approval as to section 3, Substitute House Bill No. 1233 entitled:

"AN ACT Relating to improving services for kinship caregivers;"

This bill requires the Department of Social and Health Services (DSHS) to do more to promote kinship placements when children are placed in out-of-home care by the Children's Administration. It requires DSHS to develop more rigorous standardized kin search procedures, to seek grant funding to establish two pilot kinship care navigator projects to assist caregivers, and to establish a kinship care oversight committee.

Section 3 of the bill would have required DSHS to report to the Legislature and to the Governor regarding findings from the implementation of the two proposed pilot kinship care navigator projects. This is in addition to the report the bill requires from the kinship care oversight committee. I am concerned that this bill would create two new reporting requirements for DSHS at a time when we are seeking ways to reduce paperwork requirements in order to maximize limited staff resources. I have vetoed section 3, and I am directing DSHS to be prepared to instead brief the Legislature on the same topic.

For these reasons, I have vetoed section 3 of Substitute House Bill No. 1233.

With the exception of section 3, Substitute House Bill No. 1233 is approved."

CHAPTER 285

[Substitute House Bill 1028]

AT-RISK YOUTH—STUDY

AN ACT Relating to a study of proven intervention and prevention programs for at-risk youth; creating a new section; and providing an expiration date.

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

NEW SECTION. **Sec. 1.** The joint legislative audit and review committee shall:

(1) Review and analyze research, including research conducted by the Washington state institute for public policy, to identify programs that have been proven effective at (a) preserving families and (b) reducing crime committed by youth who are eleven to eighteen years of age;

(2) Report on the research findings about costs, benefits, and outcomes of the programs identified in subsection (1) of this section that (a) have been successfully implemented by local jurisdictions in Washington state; (b) have resulted in documented and measurable positive outcomes related to family preservation and juvenile crime reduction in Washington state; and (c) have resulted in cost savings, or were cost neutral, to the state budget;

(3) Report on the research findings about the role that financial and other incentives have played in stimulating local government investment in the programs identified in subsection (1) of this section; and

(4) Evaluate, recommend, and report where appropriate, options for financial and other incentives designed to encourage local government investment in the programs identified in subsection (1) of this section. Among the incentives that may be considered are those that reimburse local jurisdictions for a portion of the savings that accrue to the state as the result of local government investment in such programs.

In carrying out this review, the joint legislative audit and review committee may consider using a sample of local communities and local governments, but should be attentive to regional differences within the state.

The committee shall submit an interim report to the appropriate policy and fiscal committees of the legislature by September 1, 2004, and a final report to the same committees by September 1, 2005.

This section expires December 31, 2005.

Passed by the House April 24, 2003.

Passed by the Senate April 14, 2003.

Approved by the Governor May 14, 2003.

Filed in Office of Secretary of State May 14, 2003.

CHAPTER 286

[House Bill 1170]

DAY-CARE FACILITIES

AN ACT Relating to day-care facility location restrictions; amending RCW 35.63.185, 35A.63.215, and 36.70A.450; adding a new section to chapter 35.21 RCW; and adding a new section to chapter 36.70 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 35.21 RCW to read as follows:

(1) Except as provided in subsections (2) and (3) of this section, no city or town may enact, enforce, or maintain an ordinance, development regulation, zoning regulation, or official control, policy, or administrative practice that prohibits the use of a residential dwelling, located in an area zoned for residential or commercial use, as a family day-care provider's facility serving twelve or fewer children.

(2) A city or town may require that the facility: (a) Comply with all building, fire, safety, health code, and business licensing requirements; (b) conform to lot size, building size, setbacks, and lot coverage standards applicable to the zoning district except if the structure is a legal nonconforming structure; (c) is certified by the office of child care policy licensor as providing a safe passenger loading area; (d) include signage, if any, that conforms to applicable regulations; and (e) limit hours of operations to facilitate neighborhood compatibility, while also providing appropriate opportunity for persons who use family day-care who work a nonstandard work shift.

(3) A city or town may also require that the family day-care provider, before state licensing, require proof of written notification by the provider that the immediately adjoining property owners have been informed of the intent to locate and maintain such a facility. If a dispute arises between neighbors and the day-care provider over licensing requirements, the licensor may provide a forum to resolve the dispute.

(4) This section may not be construed to prohibit a city or town from imposing zoning conditions on the establishment and maintenance of a family day-care provider's home serving twelve or fewer children in an area zoned for residential or commercial use, if the conditions are no more restrictive than conditions imposed on other residential dwellings in the same zone and the establishment of such facilities is not precluded. As used in this section, "family day-care provider" is as defined in RCW 74.15.020.

NEW SECTION. Sec. 2. A new section is added to chapter 36.70 RCW to read as follows:

(1) Except as provided in subsections (2) and (3) of this section, no county may enact, enforce, or maintain an ordinance, development regulation, zoning regulation, or official control, policy, or administrative practice that prohibits the use of a residential dwelling, located in an area zoned for residential or commercial use, as a family day-care provider's facility serving twelve or fewer children.

(2) A county may require that the facility: (a) Comply with all building, fire, safety, health code, and business licensing requirements; (b) conform to lot size, building size, setbacks, and lot coverage standards applicable to the zoning district except if the structure is a legal nonconforming structure; (c) is certified by the office of child care policy licensor as providing a safe passenger loading area; (d) include signage, if any, that conforms to applicable regulations; and (e) limit hours of operations to facilitate neighborhood compatibility, while also providing appropriate opportunity for persons who use family day-care who work a nonstandard work shift.

(3) A county may also require that the family day-care provider, before state licensing, require proof of written notification by the provider that the immediately adjoining property owners have been informed of the intent to locate and maintain such a facility. If a dispute arises between neighbors and the day-care provider over licensing requirements, the licensor may provide a forum to resolve the dispute.

(4) This section may not be construed to prohibit a county from imposing zoning conditions on the establishment and maintenance of a family day-care provider's home serving twelve or fewer children in an area zoned for residential or commercial use, if the conditions are no more restrictive than conditions

imposed on other residential dwellings in the same zone and the establishment of such facilities is not precluded. As used in this section, "family day-care provider" is as defined in RCW 74.15.020.

Sec. 3. RCW 35.63.185 and 1995 c 49 s 1 are each amended to read as follows:

(1) Except as provided in subsections (2) and (3) of this section, no city may enact, enforce, or maintain an ordinance, development regulation, zoning regulation, or official control, policy, or administrative practice (~~which~~) that prohibits the use of a residential dwelling, located in an area zoned for residential or commercial use, as a family day-care provider's home facility.

(2) A city may require that the facility: ~~((1))~~ (a) Comply with all building, fire, safety, health code, and business licensing requirements; ~~((2))~~ (b) conform to lot size, building size, setbacks, and lot coverage standards applicable to the zoning district except if the structure is a legal nonconforming structure; ~~((3))~~ (c) is certified by the office of child care policy licensor as providing a safe passenger loading area; ~~((4))~~ (d) include signage, if any, that conforms to applicable regulations; and ~~((5))~~ (e) limit hours of operations to facilitate neighborhood compatibility, while also providing appropriate opportunity for persons who use family day-care and who work a nonstandard work shift.

(3) A city may also require that the family day-care provider, before state licensing, require proof of written notification by the provider that the immediately adjoining property owners have been informed of the intent to locate and maintain such a facility. If a dispute arises between neighbors and the family day-care provider over licensing requirements, the licensor may provide a forum to resolve the dispute.

(4) Nothing in this section shall be construed to prohibit a city from imposing zoning conditions on the establishment and maintenance of a family day-care provider's home in an area zoned for residential or commercial use, so long as such conditions are no more restrictive than conditions imposed on other residential dwellings in the same zone and the establishment of such facilities is not precluded. As used in this section, "family day-care provider" is as defined in RCW 74.15.020.

Sec. 4. RCW 35A.63.215 and 1995 c 49 s 2 are each amended to read as follows:

(1) Except as provided in subsections (2) and (3) of this section, no city may enact, enforce, or maintain an ordinance, development regulation, zoning regulation, or official control, policy, or administrative practice (~~which~~) that prohibits the use of a residential dwelling, located in an area zoned for residential or commercial use, as a family day-care provider's home facility.

(2) A city may require that the facility: ~~((1))~~ (a) Comply with all building, fire, safety, health code, and business licensing requirements; ~~((2))~~ (b) conform to lot size, building size, setbacks, and lot coverage standards applicable to the zoning district except if the structure is a legal nonconforming structure; ~~((3))~~ (c) is certified by the office of child care policy licensor as providing a safe passenger loading area; ~~((4))~~ (d) include signage, if any, that conforms to applicable regulations; and ~~((5))~~ (e) limit hours of operations to facilitate neighborhood compatibility, while also providing appropriate opportunity for persons who use family day-care and who work a nonstandard work shift.

(3) A city may also require that the family day-care provider, before state licensing, require proof of written notification by the provider that the immediately adjoining property owners have been informed of the intent to locate and maintain such a facility. If a dispute arises between neighbors and the family day-care provider over licensing requirements, the licensor may provide a forum to resolve the dispute.

(4) Nothing in this section shall be construed to prohibit a city from imposing zoning conditions on the establishment and maintenance of a family day-care provider's home in an area zoned for residential or commercial use, so long as such conditions are no more restrictive than conditions imposed on other residential dwellings in the same zone and the establishment of such facilities is not precluded. As used in this section, "family day-care provider" is as defined in RCW 74.15.020.

Sec. 5. RCW 36.70A.450 and 1995 c 49 s 3 are each amended to read as follows:

(1) Except as provided in subsections (2) and (3) of this section, no county or city (~~(that plans or elects to plan under this chapter)~~) may enact, enforce, or maintain an ordinance, development regulation, zoning regulation, or official control, policy, or administrative practice (~~(which)~~) that prohibits the use of a residential dwelling, located in an area zoned for residential or commercial use, as a family day-care provider's home facility.

(2) A county or city may require that the facility: ~~((1))~~ (a) Comply with all building, fire, safety, health code, and business licensing requirements; ~~((2))~~ (b) conform to lot size, building size, setbacks, and lot coverage standards applicable to the zoning district except if the structure is a legal nonconforming structure; ~~((3))~~ (c) is certified by the office of child care policy licensor as providing a safe passenger loading area; ~~((4))~~ (d) include signage, if any, that conforms to applicable regulations; and ~~((5))~~ (e) limit hours of operations to facilitate neighborhood compatibility, while also providing appropriate opportunity for persons who use family day-care and who work a nonstandard work shift.

(3) A county or city may also require that the family day-care provider, before state licensing, require proof of written notification by the provider that the immediately adjoining property owners have been informed of the intent to locate and maintain such a facility. If a dispute arises between neighbors and the family day-care provider over licensing requirements, the licensor may provide a forum to resolve the dispute.

(4) Nothing in this section shall be construed to prohibit a county or city (~~(that plans or elects to plan under this chapter)~~) from imposing zoning conditions on the establishment and maintenance of a family day-care provider's home in an area zoned for residential or commercial use, so long as such conditions are no more restrictive than conditions imposed on other residential dwellings in the same zone and the establishment of such facilities is not precluded. As used in this section, "family day-care provider" is as defined in RCW 74.15.020.

Passed by the House February 12, 2003.

Passed by the Senate April 16, 2003.

Approved by the Governor May 14, 2003.

Filed in Office of Secretary of State May 14, 2003.

CHAPTER 287

[Substitute House Bill 1455]

UNIFORM MONEY SERVICES ACT

AN ACT Relating to licensing and regulating money transmission and currency exchange; 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. SHORT TITLE. This chapter may be known and cited as the uniform money services act.

NEW SECTION. Sec. 2. PURPOSE. It is the intent of the legislature to establish a state system of licensure and regulation to ensure the safe and sound operation of money transmission and currency exchange businesses, to ensure that these businesses are not used for criminal purposes, to promote confidence in the state's financial system, and to protect the public interest.

NEW SECTION. Sec. 3. DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Affiliate" means any person who directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, another person.

(2) "Applicant" means a person that files an application for a license under this chapter, including the applicant's proposed responsible individual and executive officers, and persons in control of the applicant.

(3) "Authorized delegate" means a person a licensee designates to provide money services on behalf of the licensee. A person that is exempt from licensing under this chapter cannot have an authorized delegate.

(4) "Financial institution" means any person doing business under the laws of any state or the United States relating to commercial banks, bank holding companies, savings banks, savings and loan associations, trust companies, or credit unions.

(5) "Control" means:

(a) Ownership of, or the power to vote, directly or indirectly, at least twenty-five percent of a class of voting securities or voting interests of a licensee or applicant, or person in control of a licensee or applicant;

(b) Power to elect a majority of executive officers, managers, directors, trustees, or other persons exercising managerial authority of a licensee or applicant, or person in control of a licensee or applicant; or

(c) Power to exercise directly or indirectly, a controlling influence over the management or policies of a licensee or applicant, or person in control of a licensee or applicant.

(6) "Currency exchange" means exchanging the money of one government for money of another government, or holding oneself out as able to exchange the money of one government for money of another government. The following persons are not considered currency exchangers:

(a) Affiliated businesses that engage in currency exchange for a business purpose other than currency exchange;

(b) A person who provides currency exchange services for a person acting primarily for a business, commercial, agricultural, or investment purpose when the currency exchange is incidental to the transaction;

(c) A person who deals in coins or a person who deals in money whose value is primarily determined because it is rare, old, or collectible; and

(d) A person who in the regular course of business chooses to accept from a customer the currency of a country other than the United States in order to complete the sale of a good or service other than currency exchange, that may include cash back to the customer, and does not otherwise trade in currencies or transmit money for compensation or gain.

(7) "Executive officer" means a president, chairperson of the executive committee, chief financial officer, responsible individual, or other individual who performs similar functions.

(8) "Licensee" means a person licensed under this chapter.

(9) "Material litigation" means litigation that according to generally accepted accounting principles is significant to an applicant's or a licensee's financial health and would be required to be disclosed in the applicant's or licensee's annual audited financial statements, report to shareholders, or similar records.

(10) "Money" means a medium of exchange that is authorized or adopted by the United States or a foreign government or other recognized medium of exchange. "Money" includes a monetary unit of account established by an intergovernmental organization or by agreement between two or more governments.

(11) "Money services" means money transmission or currency exchange.

(12) "Money transmission" means receiving money or its equivalent value to transmit, deliver, or instruct to be delivered the money or its equivalent value to another location, inside or outside the United States, by any means including but not limited to by wire, facsimile, or electronic transfer. "Money transmission" does not include the provision solely of connection services to the internet, telecommunications services, or network access.

(13) "Outstanding money transmission" means the value of all money transmissions reported to the licensee for which the money transmitter has received money or its equivalent value from the customer for transmission, but has not yet completed the money transmission by delivering the money or monetary value to the person designated by the customer.

(14) "Payment instrument" means a check, draft, money order, traveler's check, or other instrument for the transmission or payment of money or its equivalent value, whether or not negotiable. "Payment instrument" does not include a credit card voucher, letter of credit, or instrument that is redeemable by the issuer in goods or services.

(15) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture; government, governmental subdivision, agency, or instrumentality; public corporation; or any other legal or commercial entity.

(16) "Record" means information that is inscribed on a tangible medium, or that is stored in an electronic or other medium, and is retrievable in perceivable form.

(17) "Responsible individual" means an individual who is employed by a licensee and has principal managerial authority over the provision of money services by the licensee in this state.

(18) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(19) "Director" means the director of financial institutions.

(20) "Unsafe or unsound practice" means a practice or conduct by a person licensed to provide money services, or an authorized delegate of such a person, which creates the likelihood of material loss, insolvency, or dissipation of the licensee's assets, or otherwise materially prejudices the financial condition of the licensee or the interests of its customers.

(21) "Board director" means a member of the applicant's or licensee's board of directors if the applicant is a corporation or limited liability company, or a partner if the applicant or licensee is a partnership.

(22) "Annual license assessment due date" means the date specified in rule by the director upon which the annual license assessment is due.

(23) "Currency exchanger" means a person that is engaged in currency exchange.

(24) "Money transmitter" means a person that is engaged in money transmission.

(25) "Mobile location" means a vehicle or movable facility where money services are provided.

(26) "Stored value" means the recognition of value or credit to the account of persons, when that value or credit is primarily intended to be redeemed for a limited universe of goods, intangibles, services, or other items provided by the issuer of the stored value, its affiliates, or others involved in transactions functionally related to the issuer or its affiliates.

NEW SECTION. Sec. 4. EXCLUSIONS. This chapter does not apply to:

- (1) The United States or a department, agency, or instrumentality thereof;
- (2) Money transmission by the United States postal service or by a contractor on behalf of the United States postal service;
- (3) A state, county, city, or a department, agency, or instrumentality thereof;
- (4) A financial institution or its subsidiaries, affiliates, and service corporations, or any office of an international banking corporation, branch of a foreign bank, or corporation organized pursuant to the Bank Service Corporation Act (12 U.S.C. Sec. 1861-1867) or a corporation organized under the Edge Act (12 U.S.C. Sec. 611-633);
- (5) Electronic funds transfer of governmental benefits for a federal, state, county, or governmental agency by a contractor on behalf of the United States or a department, agency, or instrumentality thereof, or a state or governmental subdivision, agency, or instrumentality thereof;
- (6) A board of trade designated as a contract market under the federal Commodity Exchange Act (7 U.S.C. Sec. 1-25) or a person that, in the ordinary course of business, provides clearance and settlement services for a board of trade to the extent of its operation as, or for, a board of trade;
- (7) A registered futures commission merchant under the federal commodities laws to the extent of its operation as such a merchant;

(8) A person that provides clearance or settlement services under a registration as a clearing agency, or an exemption from that registration granted under the federal securities laws, to the extent of its operation as such a provider;

(9) An operator of a payment system only to the extent that it provides processing, clearing, or settlement services, between or among persons who are all excluded by this section, in connection with wire transfers, credit card transactions, debit card transactions, stored-value transactions, automated clearinghouse transfers, or similar funds transfers;

(10) A person registered as a securities broker-dealer or investment advisor under federal or state securities laws to the extent of its operation as such a broker-dealer or investment advisor;

(11) An insurance company, title insurance company, or escrow agent to the extent that such an entity is lawfully authorized to conduct business in this state as an insurance company, title insurance company, or escrow agent and to the extent that they engage in money transmission or currency exchange as an ancillary service when conducting insurance, title insurance, or escrow activity;

(12) The issuance, sale, use, redemption, or exchange of stored value or of payment instruments; or

(13) An attorney, to the extent that the attorney is lawfully authorized to practice law in this state and to the extent that the attorney engages in money transmission or currency exchange as an ancillary service to the practice of law.

NEW SECTION. Sec. 5. MONEY TRANSMITTER LICENSE REQUIRED. (1) A person may not engage in the business of money transmission, or advertise, solicit, or hold itself out as providing money transmission, unless the person is:

(a) Licensed as a money transmitter under this chapter; or

(b) An authorized delegate of a person licensed as a money transmitter under this chapter.

(2) A money transmitter license is not transferable or assignable.

NEW SECTION. Sec. 6. APPLICATION FOR A MONEY TRANSMITTER LICENSE. (1) A person applying for a money transmitter license under this chapter shall do so in a form and in a medium prescribed in rule by the director. The application must state or contain:

(a) The legal name, business addresses, and residential address, if applicable, of the applicant and any fictitious or trade name used by the applicant in conducting its business;

(b) The legal name, residential and business addresses, date of birth, social security number, employment history for the five-year period preceding the submission of the application of the applicant's proposed responsible individual, and documentation that the proposed responsible individual is a citizen of the United States or has obtained legal immigration status to work in the United States. In addition, the applicant shall provide the fingerprints of the proposed responsible individual upon the request of the director;

(c) For the ten-year period preceding submission of the application, a list of any criminal convictions of the proposed responsible individual of the applicant, any material litigation in which the applicant has been involved, and any litigation involving the proposed responsible individual relating to the provision of money services;

(d) A description of any money services previously provided by the applicant and the money services that the applicant seeks to provide in this state;

(e) A list of the applicant's proposed authorized delegates and the locations in this state where the applicant and its authorized delegates propose to engage in the provision of money services;

(f) A list of other states in which the applicant is licensed to engage in money transmission, or provide other money services, and any license revocations, suspensions, restrictions, or other disciplinary action taken against the applicant in another state;

(g) A list of any license revocations, suspensions, restrictions, or other disciplinary action taken against any money services business involving the proposed responsible individual;

(h) Information concerning any bankruptcy or receivership proceedings involving or affecting the applicant or the proposed responsible individual;

(i) A sample form of contract for authorized delegates, if applicable;

(j) A description of the source of money and credit to be used by the applicant to provide money services; and

(k) Any other information regarding the background, experience, character, financial responsibility, and general fitness of the applicant, the applicant's responsible individual, or authorized delegates that the director may require in rule.

(2) If an applicant is a corporation, limited liability company, partnership, or other entity, the applicant shall also provide:

(a) The date of the applicant's incorporation or formation and state or country of incorporation or formation;

(b) If applicable, a certificate of good standing from the state or country in which the applicant is incorporated or formed;

(c) A brief description of the structure or organization of the applicant, including any parent or subsidiary of the applicant, and whether any parent or subsidiary is publicly traded;

(d) The legal name, any fictitious or trade name, all business and residential addresses, date of birth, social security number, and employment history in the ten-year period preceding the submission of the application for each executive officer, board director, or person that has control of the applicant;

(e) If the applicant or its corporate parent is not a publicly traded entity, the director may request the fingerprints of each executive officer, board director, or person that has control of the applicant;

(f) A list of any criminal convictions, material litigation, and any litigation related to the provision of money services, in the ten-year period preceding the submission of the application in which any executive officer, board director, or person in control of the applicant has been involved;

(g) A copy of the applicant's audited financial statements for the most recent fiscal year or, if the applicant is a wholly owned subsidiary of another corporation, the most recent audited consolidated annual financial statement of the parent corporation or the applicant's most recent audited consolidated annual financial statement, and in each case, if available, for the two-year period preceding the submission of the application;

(h) A copy of the applicant's unconsolidated financial statements for the current fiscal year, whether audited or not, and, if available, for the two-year period preceding the submission of the application;

(i) If the applicant is publicly traded, a copy of the most recent report filed with the United States securities and exchange commission under section 13 of the federal Securities Exchange Act of 1934 (15 U.S.C. Sec. 78m);

(j) If the applicant is a wholly owned subsidiary of:

(i) A corporation publicly traded in the United States, a copy of audited financial statements for the parent corporation for the most recent fiscal year or a copy of the parent corporation's most recent report filed under section 13 of the federal Securities Exchange Act of 1934 (15 U.S.C. Sec. 78m); or

(ii) A corporation publicly traded outside the United States, a copy of similar documentation filed with the regulator of the parent corporation's domicile outside the United States;

(k) If the applicant has a registered agent in this state, the name and address of the applicant's registered agent in this state; and

(l) Any other information that the director may require in rule regarding the applicant, each executive officer, or each board director to determine the applicant's background, experience, character, financial responsibility, and general fitness.

(3) A nonrefundable application fee and an initial license fee, as determined in rule by the director, must accompany an application for a license under this chapter. The initial license fee must be refunded if the application is denied.

(4) The director may waive one or more requirements of subsection (I) or (2) of this section or permit an applicant to submit other information in lieu of the required information.

NEW SECTION. Sec. 7. SECURITY. (1) Each money transmitter licensee shall maintain a surety bond, or other similar security acceptable to the director, in the amount of at least ten thousand dollars, and not exceeding fifty thousand dollars, as defined in rule by the director, plus ten thousand dollars per location, including locations of authorized delegates, not exceeding a total addition of five hundred thousand dollars.

(2) The surety bond shall run to the state of Washington as obligee, and shall run to the benefit of the state and any person or persons who suffer loss by reason of a licensee's or licensee's authorized delegate's violation of this chapter or the rules adopted under this chapter. A claimant against a money transmitter licensee may maintain an action on the bond, or the director may maintain an action on behalf of the claimant.

(3) The surety bond shall be continuous and may be canceled by the surety upon the surety giving written notice to the director of its intent to cancel the bond. The cancellation is effective thirty days after the notice of cancellation is received by the director or the director's designee. Whether or not the bond is renewed, continued, replaced, or modified, including increases or decreases in the penal sum, it is considered one continuous obligation, and the surety upon the bond is not liable in an aggregate or cumulative amount exceeding the penal sum set forth on the face of the bond. In no event may the penal sum, or any portion thereof, at two or more points in time, be added together in determining the surety's liability.

(4) A surety bond or other security must cover claims for at least five years after the date of a money transmitter licensee's violation of this chapter, or at least five years after the date the money transmitter licensee ceases to provide money services in this state, whichever is longer. However, the director may permit the amount of the surety bond or other security to be reduced or eliminated before the expiration of that time to the extent the amount of the licensee's obligations outstanding in this state are reduced.

(5) In the event that a money transmitter licensee does not maintain a surety bond or other form of security satisfactory to the director in the amount required under subsection (1) of this section, the director may issue a temporary cease and desist order under section 28 of this act.

(6) The director may increase the amount of security required to a maximum of one million dollars if the financial condition of a money transmitter licensee so requires, as evidenced by reduction of net worth, financial losses, potential losses as a result of violations of this chapter or rules adopted under this chapter, or other relevant criteria specified by the director in rule.

NEW SECTION. Sec. 8. NET WORTH FOR MONEY TRANSMITTER.

A money transmitter licensed under this chapter shall maintain a net worth, determined in accordance with generally accepted accounting principles, as determined in rule by the director. The director shall require a net worth of at least ten thousand dollars and not more than fifty thousand dollars. In the event that a licensee's net worth, as determined in accordance with generally accepted accounting principles, falls below the amount required in rule, the director or the director's designee may initiate action under sections 25 and 28 of this act. The licensee may request a hearing on such an action under chapter 34.05 RCW.

NEW SECTION. Sec. 9. ISSUANCE OF MONEY TRANSMITTER LICENSE. (1) When an application for a money transmitter license is filed under this chapter, the director or the director's designee shall investigate the applicant's financial condition and responsibility, financial and business experience, competence, character, and general fitness. The director or the director's designee may conduct an on-site investigation of the applicant, the cost of which must be paid by the applicant as specified in section 34 of this act or rules adopted under this chapter. The director shall issue a money transmitter license to an applicant under this chapter if the director or the director's designee finds that all of the following conditions have been fulfilled:

(a) The applicant has complied with sections 6, 7, and 8 of this act;

(b) The financial condition and responsibility, financial and business experience, competence, character, and general fitness of the applicant; and the competence, financial and business experience, character, and general fitness of the executive officers, proposed responsible individual, board directors, and persons in control of the applicant; indicate that it is in the interest of the public to permit the applicant to engage in the business of providing money transmission services; and

(c) Neither the applicant, nor any executive officer, nor person who exercises control over the applicant, nor the proposed responsible individual is listed on the specially designated nationals and blocked persons list prepared by the United States department of the treasury or department of state under Presidential Executive Order No. 13224.

(2) The director may for good cause extend the application review period.

(3) An applicant whose application is denied by the director under this chapter may appeal under chapter 34.05 RCW.

(4) A money transmitter license issued under this chapter is valid from the date of issuance and remains in effect with no fixed date of expiration unless otherwise suspended or revoked by the director or unless the license expires for nonpayment of the annual license assessment and any late fee, if applicable.

(5) A money transmitter licensee may surrender a license by delivering the original license to the director along with a written notice of surrender. The written notice of surrender must include notice of where the records of the licensee will be stored and the name, address, telephone number, and other contact information of a responsible party who is authorized to provide access to the records. The surrender of a license does not reduce or eliminate the licensee's civil or criminal liability arising from acts or omissions occurring prior to the surrender of the license, including any administrative actions undertaken by the director or the director's designee to revoke or suspend a license, to assess fines, to order payment of restitution, or to exercise any other authority authorized under this chapter.

NEW SECTION. Sec. 10. CURRENCY EXCHANGE LICENSE REQUIRED. (1) A person may not engage in the business of currency exchange or advertise, solicit, or hold itself out as able to engage in currency exchange for which the person receives revenue equal to or greater than five percent of total revenues, unless the person is:

- (a) Licensed to provide currency exchange under this chapter;
 - (b) Licensed for money transmission under this chapter; or
 - (c) An authorized delegate of a person licensed under this chapter.
- (2) A license under this chapter is not transferable or assignable.

NEW SECTION. Sec. 11. APPLICATION FOR A CURRENCY EXCHANGE LICENSE. (1) A person applying for a currency exchange license under this chapter shall do so in a form and in a medium prescribed in rule by the director. The application must state or contain:

(a) The legal name, business addresses, and residential address, if applicable, of the applicant and any fictitious or trade name used by the applicant in conducting its business, and the legal name, residential and business addresses, date of birth, social security number, employment history for the five-year period preceding the submission of the application; and upon request of the director, fingerprints of the applicant's proposed responsible individual and documentation that the proposed responsible individual is a citizen of the United States or has obtained legal immigration status to work in the United States;

(b) For the ten-year period preceding the submission of the application, a list of any criminal convictions of the proposed responsible individual of the applicant, any material litigation in which the applicant has been involved, and any litigation involving the proposed responsible individual relating to the provision of money services;

(c) A description of any money services previously provided by the applicant and the money services that the applicant seeks to provide in this state;

(d) A list of the applicant's proposed authorized delegates and the locations in this state where the applicant and its authorized delegates propose to engage in currency exchange;

(e) A list of other states in which the applicant engages in currency exchange or provides other money services and any license revocations, suspensions, restrictions, or other disciplinary action taken against the applicant in another state;

(f) A list of any license revocations, suspensions, restrictions, or other disciplinary action taken against any money services business involving the proposed responsible individual;

(g) Information concerning any bankruptcy or receivership proceedings involving or affecting the applicant or the proposed responsible individual;

(h) A sample form of contract for authorized delegates, if applicable;

(i) A description of the source of money and credit to be used by the applicant to provide currency exchange; and

(j) Any other information regarding the background, experience, character, financial responsibility, and general fitness of the applicant, the applicant's responsible individual, or authorized delegates that the director may require in rule.

(2) If an applicant is a corporation, limited liability company, partnership, or other entity, the applicant shall also provide:

(a) The date of the applicant's incorporation or formation and state or country of incorporation or formation;

(b) If applicable, a certificate of good standing from the state or country in which the applicant is incorporated or formed;

(c) A brief description of the structure or organization of the applicant, including any parent or subsidiary of the applicant, and whether any parent or subsidiary is publicly traded;

(d) The legal name, any fictitious or trade name, all business and residential addresses, date of birth, social security number, and employment history in the ten-year period preceding the submission of the application for each executive officer, board director, or person that has control of the applicant;

(e) If the applicant or its corporate parent is not a publicly traded entity, the director may request the fingerprints for each executive officer, board director, or person that has control of the applicant; and

(f) A list of any criminal convictions, material litigation, and any litigation related to the provision of money services, in which any executive officer, board director, or person in control of the applicant has been involved in the ten-year period preceding the submission of the application.

(3) A nonrefundable application fee and an initial license fee, as determined in rule by the director, must accompany an application for a currency exchange license under this chapter. The license fee must be refunded if the application is denied.

(4) The director may waive one or more requirements of subsection (1) or (2) of this section or permit an applicant to submit other information in lieu of the required information.

NEW SECTION. Sec. 12. ISSUANCE OF A CURRENCY EXCHANGE LICENSE. (1) When an application for a currency exchange license is filed under this chapter, the director or the director's designee shall investigate the applicant's financial condition and responsibility, financial and business experience, competence, character, and general fitness. The director or the director's designee may conduct an on-site investigation of the applicant, the cost

of which must be paid by the applicant as specified in section 34 of this act or rules adopted under this chapter. The director shall issue a currency exchange license to an applicant under this chapter if the director or the director's designee finds that all of the following conditions have been fulfilled:

(a) The applicant has complied with section 11 of this act;

(b) The financial and business experience, competence, character, and general fitness of the applicant; and the competence, financial and business experience, character, and general fitness of the executive officers, proposed responsible individual, board directors, and persons in control of the applicant indicate that it is in the interest of the public to permit the applicant to engage in the business of providing currency exchange; and

(c) Neither the applicant, nor any executive officer, nor person who exercises control over the applicant, nor the proposed responsible individual are listed on the specially designated nationals and blocked persons list prepared by the United States department of treasury or department of state under Presidential Executive Order No. 13224.

(2) The director may for good cause extend the application review period.

(3) An applicant whose application is denied by the director under this chapter may appeal under chapter 34.05 RCW.

(4) A currency exchange license issued under this chapter is valid from the date of issuance and remains in effect with no fixed date of expiration unless otherwise suspended or revoked by the director, or unless the license expires for nonpayment of the annual license assessment and any late fee, if applicable.

(5) A currency exchange licensee may surrender a license by delivering the original license to the director along with a written notice of surrender. The written notice of surrender must include notice of where the records of the licensee will be stored and the name, address, telephone number, and other contact information of a responsible party who is authorized to provide access to the records. The surrender of a license does not reduce or eliminate the licensee's civil or criminal liability arising from acts or omissions occurring prior to the surrender of the license, including any administrative actions undertaken by the director or the director's designee to revoke or suspend a license, to assess fines, to order payment of restitution, or to exercise any other authority authorized under this chapter.

NEW SECTION. Sec. 13. ANNUAL LICENSE ASSESSMENT AND ANNUAL REPORT. (1) A licensee shall pay an annual license assessment as established in rule by the director no later than the annual license assessment due date or, if the annual license assessment due date is not a business day, on the next business day.

(2) A licensee shall submit an annual report with the annual license assessment, in a form and in a medium prescribed by the director in rule. The annual report must state or contain:

(a) If the licensee is a money transmitter, a copy of the licensee's most recent audited annual financial statement or, if the licensee is a wholly owned subsidiary of another corporation, the most recent audited consolidated annual financial statement of the parent corporation or the licensee's most recent audited consolidated annual financial statement;

(b) A description of each material change, as defined in rule by the director, to information submitted by the licensee in its original license application which has not been previously reported to the director on any required report;

(c) If the licensee is a money transmitter, a list of the licensee's permissible investments and a certification that the licensee continues to maintain permissible investments according to the requirements set forth in sections 22 and 23 of this act;

(d) If the licensee is a money transmitter, proof that the licensee continues to maintain adequate security as required by section 7 of this act; and

(e) A list of the locations in this state where the licensee or an authorized delegate of the licensee engages in or provides money services.

(3) If a licensee does not file an annual report or pay its annual license assessment by the annual license assessment due date, the director or the director's designee shall send the licensee a notice of suspension and assess the licensee a late fee not to exceed twenty-five percent of the annual license assessment as established in rule by the director. The licensee's annual report and payment of both the annual license assessment and the late fee must arrive in the department's offices by 5:00 p.m. on the thirtieth day after the assessment due date or any extension of time granted by the director, unless that date is not a business day, in which case the licensee's annual report and payment of both the annual license assessment and the late fee must arrive in the department's offices by 5:00 p.m. on the next occurring business day. If the licensee's annual report and payment of both the annual license assessment and late fee do not arrive by such date, the expiration of the licensee's license is effective at 5:00 p.m. on the thirtieth day after the assessment due date, unless that date is not a business day, in which case the expiration of the licensee's license is effective at 5:00 p.m. on the next occurring business day. The director, or the director's designee, may reinstate the license if, within twenty days after its effective date, the licensee:

(a) Files the annual report and pays both the annual license assessment and the late fee; and

(b) The licensee did not engage in or provide money services during the period its license was expired.

NEW SECTION. Sec. 14. RELATIONSHIP BETWEEN LICENSEE AND AUTHORIZED DELEGATE. (1) In this section, "remit" means to make direct payments of money to a licensee or its representative authorized to receive money or to deposit money in a bank in an account specified by the licensee.

(2) A contract between a licensee and an authorized delegate must require the authorized delegate to operate in full compliance with this chapter and the rules adopted under this chapter.

(3) Neither the licensee nor an authorized delegate may authorize subdelegates.

(4) An authorized delegate shall remit all money owing to the licensee in accordance with the terms of the contract between the licensee and the authorized delegate.

(5) If a license is suspended or revoked or a licensee surrenders its license, the director shall notify all authorized delegates of the licensee whose names are filed with the director of the suspension, revocation, or surrender and shall publish the name of the licensee. An authorized delegate shall immediately cease to provide money services as a delegate of the licensee upon receipt of

notice, or after publication is made, that the licensee's license has been suspended, revoked, or surrendered.

(6) An authorized delegate may not provide money services other than those allowed the licensee under its license. In addition, an authorized delegate may not provide money services outside the scope of activity permissible under the contract between the authorized delegate and the licensee, except activity in which the authorized delegate is authorized to engage under section 5 or 10 of this act.

NEW SECTION. Sec. 15. AUTHORITY TO CONDUCT EXAMINATIONS AND INVESTIGATIONS. (1) For the purpose of discovering violations of this chapter or rules adopted under this chapter, discovering unsafe and unsound practices, or securing information lawfully required under this chapter, the director may at any time, either personally or by designee, investigate or examine the business and, wherever located, the books, accounts, records, papers, documents, files, and other information used in the business of every licensee or its authorized delegates, and of every person who is engaged in the business of providing money services, whether the person acts or claims to act under or without the authority of this chapter. For these purposes, the director or designated representative shall have free access to the offices and places of business, books, accounts, papers, documents, other information, records, files, safes, and vaults of all such persons. The director or the director's designee may require the attendance of and examine under oath all persons whose testimony may be required about the business or the subject matter of any investigation, examination, or hearing and may require such person to produce books, accounts, papers, documents, records, files, and any other information the director or designated person declares is relevant to the inquiry. The director may require the production of original books, accounts, papers, documents, records, files, and other information; may require that such original books, accounts, papers, documents, records, files, and other information be copied; or may make copies himself or herself or by designee of such original books, accounts, papers, documents, records, files, or other information. The director or designated person may issue a subpoena or subpoena duces tecum requiring attendance or compelling production of the books, accounts, papers, documents, records, files, or other information.

(2) The licensee, applicant, or person subject to licensing under this chapter shall pay the cost of examinations and investigations as specified in section 34 of this act or rules adopted under this chapter.

(3) Information obtained during an examination or investigation under this chapter may be disclosed only as provided in section 21 of this act.

NEW SECTION. Sec. 16. JOINT EXAMINATIONS. (1) The director may conduct an on-site examination or investigation of the books, accounts, records, papers, documents, files, and other information used in the business of every licensee or its authorized delegates in conjunction with representatives of other state agencies or agencies of another state or of the federal government. The director may accept an examination report or an investigation report of an agency of this state or of another state or of the federal government.

(2) A joint examination or investigation, or an acceptance of an examination or investigation report, does not preclude the director from conducting an

examination or investigation under this chapter. A joint report or a report accepted under this section is an official report of the director for all purposes.

NEW SECTION. Sec. 17. REPORTS. (1) A licensee shall file with the director within thirty business days any material changes in information provided in a licensee's application as prescribed in rule by the director. If this information indicates that the licensee is no longer in compliance with this chapter, the director may take any action authorized under this chapter to ensure that the licensee operates in compliance with this chapter.

(2) A licensee shall file with the director within forty-five days after the end of each fiscal quarter a current list of all authorized delegates and locations in this state where the licensee, or an authorized delegate of the licensee, provides money services, including mobile locations. The licensee shall state the name and street address of each location and authorized delegate operating at the location.

(3) A licensee shall file a report with the director within one business day after the licensee has reason to know of the occurrence of any of the following events:

(a) The filing of a petition by or against the licensee, or any authorized delegate of the licensee, under the United States Bankruptcy Code (11 U.S.C. Sec. 101-110) for bankruptcy or reorganization;

(b) The filing of a petition by or against the licensee, or any authorized delegate of the licensee, for receivership, the commencement of any other judicial or administrative proceeding for its dissolution or reorganization, or the making of a general assignment for the benefit of its creditors;

(c) The commencement of a proceeding to revoke, suspend, restrict, or condition its license, or otherwise discipline or sanction the licensee, in a state or country in which the licensee engages in business or is licensed;

(d) The cancellation or other impairment of the licensee's bond or other security;

(e) A charge or conviction of the licensee or of an executive officer, responsible individual, board director of the licensee, or person in control of the licensee, for a felony; or

(f) A charge or conviction of an authorized delegate for a felony.

NEW SECTION. Sec. 18. CHANGE OF CONTROL. (1) A licensee shall:

(a) Provide the director with written notice of a proposed change of control within fifteen days after learning of the proposed change of control and at least thirty days prior to the proposed change of control;

(b) Request approval of the change of control by submitting the information required in rule by the director; and

(c) Submit, with the notice, a nonrefundable fee as prescribed in rule by the director.

(2) After review of a request for approval under subsection (1) of this section, the director may require the licensee to provide additional information concerning the licensee's proposed persons in control. The additional information must be limited to the same types required of the licensee, or persons in control of the licensee, as part of its original license application.

(3) The director shall approve a request for change of control under subsection (1) of this section if, after investigation, the director determines that the person, or group of persons, requesting approval meets the criteria for licensing set forth in sections 9 and 12 of this act and that the public interest will not be jeopardized by the change of control.

(4) Subsection (1) of this section does not apply to a public offering of securities.

(5) Before filing a request for approval to acquire control of a licensee, or person in control of a licensee, a person may request in writing a determination from the director as to whether the person would be considered a person in control of a licensee upon consummation of a proposed transaction. If the director determines that the person would not be a person in control of a licensee, the director shall respond in writing to that effect and the proposed person and transaction is not subject to the requirements of subsections (1) through (3) of this section.

(6) The director may exempt by rule any person from the requirements of subsection (1)(a) of this section, if it is in the public interest to do so.

NEW SECTION. Sec. 19. RECORDS. (1) A licensee shall maintain the following records for determining its compliance with this chapter for at least five years:

(a) A general ledger posted at least monthly containing all assets, liabilities, capital, income, and expense accounts;

(b) Bank statements and bank reconciliation records;

(c) A list of the last known names and addresses of all of the licensee's authorized delegates;

(d) Copies of all currency transaction reports and suspicious activity reports filed in compliance with section 20 of this act; and

(e) Any other records required in rule by the director.

(2) The items specified in subsection (1) of this section may be maintained in any form of record that is readily accessible to the director or the director's designee upon request.

(3) Records may be maintained outside this state if they are made accessible to the director on seven business days' notice that is sent in writing.

(4) All records maintained by the licensee are open to inspection by the director or the director's designee.

NEW SECTION. Sec. 20. MONEY LAUNDERING REPORTS. (1) Every licensee and its authorized delegates shall file with the director or the director's designee all reports required by federal currency reporting, recordkeeping, and suspicious transaction reporting requirements as set forth in 31 U.S.C. Sec. 5311, 31 C.F.R. Sec. 103 (2000), and other federal and state laws pertaining to money laundering. Every licensee and its authorized delegates shall maintain copies of these reports in its records in compliance with section 19 of this act.

(2) The timely filing of a complete and accurate report required under subsection (1) of this section with the appropriate federal agency is compliance with the requirements of subsection (1) of this section, unless the director notifies the licensee that reports of this type are not being regularly and comprehensively transmitted by the federal agency.

NEW SECTION. Sec. 21. CONFIDENTIALITY. (1) Except as otherwise provided in subsection (2) of this section, all information or reports obtained by the director from an applicant, licensee, or authorized delegate and all information contained in, or related to, examination, investigation, operating, or condition reports prepared by, on behalf of, or for the use of the director, or financial statements, balance sheets, or authorized delegate information, are confidential and are not subject to disclosure under chapter 42.17 RCW.

(2) The director may disclose information not otherwise subject to disclosure under subsection (1) of this section to representatives of state or federal agencies who agree in writing to maintain the confidentiality of the information; or if the director finds that the release is reasonably necessary for the protection of the public and in the interests of justice.

(3) This section does not prohibit the director from disclosing to the public a list of persons licensed under this chapter or the aggregated financial data concerning those licensees.

NEW SECTION. Sec. 22. MAINTENANCE OF PERMISSIBLE INVESTMENTS. (1) A money transmitter licensee shall maintain at all times permissible investments that have a market value computed in accordance with generally accepted accounting principles of not less than the aggregate amount of all outstanding money transmission.

(2) The director, with respect to any money transmitter licensee, may limit the extent to which a type of investment within a class of permissible investments may be considered a permissible investment, except for money, time deposits, savings deposits, demand deposits, and certificates of deposit issued by a federally insured financial institution. The director may prescribe in rule, or by order allow, other types of investments that the director determines to have a safety substantially equivalent to other permissible investments.

NEW SECTION. Sec. 23. TYPES OF PERMISSIBLE INVESTMENTS. (1) Except to the extent otherwise limited by the director under section 22 of this act, the following investments are permissible for a money transmitter licensee under section 22 of this act:

(a) Cash, time deposits, savings deposits, demand deposits, a certificate of deposit, or senior debt obligation of an insured depository institution as defined in section 3 of the federal Deposit Insurance Act (12 U.S.C. Sec. 1813) or as defined under the federal Credit Union Act (12 U.S.C. Sec. 1781);

(b) Banker's acceptance or bill of exchange that is eligible for purchase upon endorsement by a member bank of the federal reserve system and is eligible for purchase by a federal reserve bank;

(c) An investment bearing a rating of one of the three highest grades as defined by a nationally recognized organization that rates securities;

(d) An investment security that is an obligation of the United States or a department, agency, or instrumentality thereof; an investment in an obligation that is guaranteed fully as to principal and interest by the United States; or an investment in an obligation of a state or a governmental subdivision, agency, or instrumentality thereof;

(e) Receivables that are payable to a licensee from its authorized delegates, in the ordinary course of business, pursuant to contracts which are not past due or doubtful of collection, if the aggregate amount of receivables under this

subsection (1)(e) does not exceed twenty percent of the total permissible investments of a licensee and the licensee does not hold, at one time, receivables under this subsection (1)(e) in any one person aggregating more than ten percent of the licensee's total permissible investments; and

(f) A share or a certificate issued by an open-end management investment company that is registered with the United States securities and exchange commission under the Investment Companies Act of 1940 (15 U.S.C. Sec. 80(a)(1) through (64), and whose portfolio is restricted by the management company's investment policy to investments specified in (a) through (d) of this subsection.

(2) The following investments are permissible under section 22 of this act, but only to the extent specified as follows:

(a) An interest-bearing bill, note, bond, or debenture of a person whose equity shares are traded on a national securities exchange or on a national over-the-counter market, if the aggregate of investments under this subsection (2)(a) does not exceed twenty percent of the total permissible investments of a licensee and the licensee does not, at one time, hold investments under this subsection (2)(a) in any one person aggregating more than ten percent of the licensee's total permissible investments;

(b) A share of a person traded on a national securities exchange or a national over-the-counter market or a share or a certificate issued by an open-end management investment company that is registered with the United States securities and exchange commission under the Investment Companies Act of 1940 (15 U.S.C. Sec. 80(a)(1) through (64), and whose portfolio is restricted by the management company's investment policy to shares of a person traded on a national securities exchange or a national over-the-counter market, if the aggregate of investments under this subsection (2)(b) does not exceed twenty percent of the total permissible investments of a licensee and the licensee does not, at one time, hold investments under this subsection (2)(b) in any one person aggregating more than ten percent of the licensee's total permissible investments;

(c) A demand-borrowing agreement made to a corporation or a subsidiary of a corporation whose securities are traded on a national securities exchange, if the aggregate of the amount of principal and interest outstanding under demand-borrowing agreements under this subsection (2)(c) does not exceed twenty percent of the total permissible investments of a licensee and the licensee does not, at one time, hold principal and interest outstanding under demand-borrowing agreements under this subsection (2)(c) with any one person aggregating more than ten percent of the licensee's total permissible investments; and

(d) Any other investment the director designates, to the extent specified in rule by the director.

(3) The aggregate of investments under subsection (2) of this section may not exceed fifty percent of the total permissible investments of a licensee.

NEW SECTION. Sec. 24. ADMINISTRATIVE PROCEEDINGS. All administrative proceedings under this chapter must be conducted in accordance with the administrative procedure act, chapter 34.05 RCW. Any licensee or authorized delegate subject to a statement of charges and order of intent from the director shall be provided with an opportunity for a hearing as provided for in

the administrative procedure act. Unless the person subject to the order appears in person or is represented by counsel at the hearing, the person has consented to issuance of the order. If after a hearing, the director finds by a preponderance of the evidence that grounds for sanctions under this chapter exist, then the director may impose any sanctions authorized by this chapter in a final order. As provided for in section 28 of this act, a temporary order to cease and desist is effective upon service upon the licensee or authorized delegate, and remains effective pending a hearing to determine if the order shall become permanent.

NEW SECTION. Sec. 25. SUSPENSION, REVOCATION, AND RECEIVERSHIP. (1) The director may issue an order to suspend, revoke, or condition a license, place a licensee in receivership, revoke the designation of an authorized delegate, compel payment of restitution by a licensee to damaged parties, require affirmative actions as are necessary by a licensee to comply with this chapter or rules adopted under this chapter, or remove from office or prohibit from participation in the affairs of any authorized delegate or any licensee, or both, any responsible individual, executive officer, person in control, or employee of the licensee, if:

(a) The licensee violates this chapter or a rule adopted or an order issued under this chapter or is convicted of a violation of a state or federal money laundering or terrorism statute;

(b) The licensee does not cooperate with an examination, investigation, or subpoena lawfully issued by the director or the director's designee;

(c) The licensee engages in fraud, intentional misrepresentation, or gross negligence;

(d) An authorized delegate is convicted of a violation of a state or federal money laundering statute, or violates this chapter or a rule adopted or an order issued under this chapter as a result of the licensee's willful misconduct or deliberate avoidance of knowledge;

(e) The financial condition and responsibility, competence, experience, character, or general fitness of the licensee, authorized delegate, person in control of a licensee, or responsible individual of the licensee or authorized delegate indicates that it is not in the public interest to permit the person to provide money services;

(f) The licensee engages in an unsafe or unsound practice, or an unfair and deceptive act or practice;

(g) The licensee is insolvent, fails to maintain the required net worth, suspends payment of its obligations, or makes a general assignment for the benefit of its creditors;

(h) The licensee does not remove an authorized delegate after the director issues and serves upon the licensee a final order including a finding that the authorized delegate has violated this chapter; or

(i) The licensee, its responsible individual, or any of its executive officers or other persons in control of the licensee are listed or become listed on the specially designated nationals and blocked persons list prepared by the United States department of the treasury as a potential threat to commit terrorist acts or to finance terrorist acts.

(2) In determining whether a licensee or other person subject to this chapter is engaging in an unsafe or unsound practice, the director may consider the size and condition of the licensee's money transmission services, the magnitude of

the loss or potential loss to consumers or others, the gravity of the violation of this chapter, any action against the licensee by another state or the federal government, and the previous conduct of the person involved.

(3) The director shall immediately suspend any certification of licensure issued under this chapter if the holder of the certificate has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order. If the person has continued to meet all other requirements for certification during the suspension, reissuance of the certificate of licensure shall be automatic upon the director's receipt of a release issued by the department of social and health services stating that the person is in compliance with the order.

NEW SECTION. Sec. 26. SUSPENSION AND REVOCATION OF AUTHORIZED DELEGATES. (1) The director may issue an order to suspend, revoke, or condition the designation of an authorized delegate, impose civil penalties, require payment of restitution to damaged parties, require affirmative actions as are necessary to comply with this chapter or the rules adopted under this chapter, or remove from office or prohibit from participation in the affairs of the authorized delegate or licensee, or both, any executive officer, person in control, or employee of the authorized delegate if the director finds that:

(a) The authorized delegate violated this chapter or a rule adopted or an order issued under this chapter;

(b) The authorized delegate does not cooperate with an examination, investigation, or subpoena lawfully issued by the director or the director's designee;

(c) The authorized delegate engaged in fraud, intentional misrepresentation, or gross negligence;

(d) The authorized delegate is convicted of a violation of a state or federal money laundering or terrorism statute;

(e) The competence, experience, character, or general fitness of the authorized delegate or a person in control of the authorized delegate indicates that it is not in the public interest to permit the authorized delegate to provide money services;

(f) The authorized delegate engaged in or is engaging in an unsafe or unsound practice, or unfair and deceptive act or practice; or

(g) The authorized delegate, or any of its executive officers or other persons in control of the authorized delegate, are listed or become listed on the specially designated nationals and blocked persons list prepared by the United States department of the treasury as a potential threat to commit terrorist acts or to finance terrorist acts.

(2) In determining whether an authorized delegate is engaging in an unsafe or unsound practice, the director may consider the size and condition of the authorized delegate's provision of money services, the magnitude of the loss or potential loss to consumers or others, the gravity of the violation of this chapter or a rule adopted or order issued under this chapter, any action against the authorized delegate taken by another state or the federal government, and the previous conduct of the authorized delegate.

NEW SECTION. Sec. 27. UNLICENSED PERSONS. (1) If the director has reason to believe that a person has violated or is violating section 5 or 10 of

this act, the director or the director's designee may conduct an examination or investigation as authorized under section 15 of this act.

(2) If as a result of such investigation or examination, the director finds that a person has violated section 5 or 10 of this act, the director may issue a temporary cease and desist order as authorized under section 28 of this act.

(3) If as a result of such an investigation or examination, the director finds that a person has violated section 5 or 10 of this act, the director may issue an order to prohibit the person from continuing to engage in providing money services, to compel the person to pay restitution to damaged parties, to impose civil money penalties on the person, and to prohibit from participation in the affairs of any licensee or authorized delegate, or both, any executive officer, person in control, or employee of the person.

(4) The director may petition the superior court for the issuance of a temporary restraining order under the rules of civil procedure.

NEW SECTION. Sec. 28. TEMPORARY ORDERS TO CEASE AND DESIST. (1) If the director determines that a violation of this chapter or of a rule adopted or an order issued under this chapter by a licensee, authorized delegate, or other person subject to this chapter is likely to cause immediate and irreparable harm to the licensee, its customers, or the public as a result of the violation, or cause insolvency or significant dissipation of the assets of the licensee, the director may issue a temporary order to cease and desist requiring the licensee, authorized delegate, or other person subject to this chapter to cease and desist from conducting business in this state or to cease and desist from the violation or undertake affirmative actions as are necessary to comply with this chapter, any rule adopted under this chapter, or order issued by the director under this chapter. The order is effective upon service upon the licensee, authorized delegate, or other person subject to this chapter.

(2) A temporary order to cease and desist remains effective and enforceable pending the completion of an administrative proceeding under chapter 34.05 RCW. If, after a hearing, the director finds that by a preponderance of the evidence, all or any part of the order is supported by the facts, the director may make the temporary order to cease and desist permanent under chapter 34.05 RCW.

(3) A licensee, an authorized delegate, or other person subject to this chapter that is served with a temporary order to cease and desist may petition the superior court for a judicial order setting aside, limiting, or suspending the enforcement, operation, or effectiveness of the order pending the completion of an administrative proceeding under chapter 34.05 RCW.

NEW SECTION. Sec. 29. CONSENT ORDERS. The director may enter into a consent order at any time with a person to resolve a matter arising under this chapter or a rule adopted or order issued under this chapter. A consent order must be signed by the person to whom it is issued or by the person's authorized representative, and must indicate agreement with the terms contained in the order.

NEW SECTION. Sec. 30. VIOLATIONS—LIABILITY. (1) A licensee is liable for any conduct violating this chapter or rules adopted under this chapter committed by employees of the licensee.

(2) A licensee that commits willful misconduct in its supervision of its authorized delegate or willfully avoids knowledge of its authorized delegate's business activities may be subjected to administrative sanctions for any violations of this chapter or rules adopted under this chapter by the licensee's authorized delegates.

(3) The responsible individual is responsible under the license and may be subjected to administrative sanctions for any violations of this chapter or rules adopted under this chapter committed by the licensee or, if the responsible individual commits willful misconduct in supervising an authorized delegate or willfully avoids knowledge of an authorized delegate's business activities, violations committed by the licensee's authorized delegates.

NEW SECTION. Sec. 31. CIVIL PENALTIES. The director may assess a civil penalty against a licensee, responsible individual, authorized delegate, or other person that violates this chapter or a rule adopted or an order issued under this chapter in an amount not to exceed one hundred dollars per day for each day the violation is outstanding, plus this state's costs and expenses for the investigation and prosecution of the matter, including reasonable attorneys' fees.

NEW SECTION. Sec. 32. CRIMINAL PENALTIES. (1) A person that intentionally makes a false statement, misrepresentation, or false certification in a record filed or required to be maintained under this chapter or that intentionally makes a false entry or omits a material entry in that record is guilty of a class C felony under chapter 9A.20 RCW.

(2) A person that knowingly engages in an activity for which a license is required under this chapter without being licensed under this chapter and who receives more than five hundred dollars in compensation within a thirty-day period from this activity is guilty of a gross misdemeanor under chapter 9A.20 RCW.

(3) A person that knowingly engages in an activity for which a license is required under this chapter without being licensed under this chapter and who receives no more than five hundred dollars in compensation within a thirty-day period from this activity is guilty of a misdemeanor under chapter 9A.20 RCW.

NEW SECTION. Sec. 33. ADMINISTRATION AND RULE-MAKING POWERS. In accordance with chapter 34.05 RCW, the director may issue rules under this chapter that are clearly required to govern the activities of licensees and other persons subject to this chapter.

NEW SECTION. Sec. 34. FEES. (1) The director shall establish fees by rule sufficient to cover the costs of administering this chapter. The director may establish different fees for each type of license authorized under this chapter. These fees may include:

(a) An annual license assessment specified in rule by the director paid by each licensee on or before the annual license assessment due date;

(b) A late fee for late payment of the annual license assessment as specified in rule by the director;

(c) An hourly examination or investigation fee to cover the costs of any examination or investigation of the books and records of a licensee or other person subject to this chapter;

(d) A nonrefundable application fee to cover the costs of processing license applications made to the director under this chapter;

(e) An initial license fee to cover the period from the date of licensure to the end of the calendar year in which the license is initially granted; and

(f) A transaction fee or set of transaction fees to cover the administrative costs associated with processing changes in control, changes of address, and other administrative changes as specified in rule by the director.

(2) The director shall ensure that when an examination or investigation, or any part of the examination or investigation, of any licensee applicant or person subject to licensing under this chapter, requires travel and services outside this state by the director or designee, the licensee applicant or person subject to licensing under this chapter that is the subject of the examination or investigation shall pay the actual travel expenses incurred by the director or designee conducting the examination or investigation.

(3) All moneys, fees, and penalties collected under this chapter shall be deposited into the financial services regulation account.

NEW SECTION. Sec. 35. MONEY TRANSMITTER DELIVERY, RECEIPTS, AND REFUNDS. (1) Every money transmitter licensee and its authorized delegates shall transmit the monetary equivalent of all money or equivalent value received from a customer for transmission, net of any fees, or issue instructions committing the money or its monetary equivalent, to the person designated by the customer within ten business days after receiving the money or equivalent value, unless otherwise ordered by the customer or unless the licensee or its authorized delegate has reason to believe that a crime has occurred, is occurring, or may occur as a result of transmitting the money. For purposes of this subsection, money is considered to have been transmitted when it is available to the person designated by the customer and a reasonable effort has been made to inform this designated person that the money is available, whether or not the designated person has taken possession of the money. As used in this subsection, "monetary equivalent," when used in connection with a money transmission in which the customer provides the licensee or its authorized delegate with the money of one government, and the designated recipient is to receive the money of another government, means the amount of money, in the currency of the government that the designated recipient is to receive, as converted at the retail exchange rate offered by the licensee or its authorized delegate to the customer in connection with the transaction.

(2) Every money transmitter licensee and its authorized delegates shall provide a receipt to the customer that clearly states the amount of money presented for transmission and the total of any fees charged by the licensee. If the rate of exchange for a money transmission to be paid in the currency of another country is fixed by the licensee for that transaction at the time the money transmission is initiated, then the receipt provided to the customer shall disclose the rate of exchange for that transaction, and the duration, if any, for the payment to be made at the fixed rate of exchange so specified. If the rate of exchange for a money transmission to be paid in the currency of another country is not fixed at the time the money transmission is sent, the receipt provided to the customer shall disclose that the rate of exchange for that transaction will be set at the time the recipient of the money transmission picks up the funds in the foreign country. As used in this section, "fees" does not include revenue that a licensee or its authorized delegate generates, in connection with a money transmission, in the

conversion of the money of one government into the money of another government.

(3) Every money transmitter licensee and its authorized delegates shall refund to the customer all moneys received for transmittal within ten days of receipt of a written request for a refund unless any of the following occurs:

(a) The moneys have been transmitted and delivered to the person designated by the customer prior to receipt of the written request for a refund;

(b) Instructions have been given committing an equivalent amount of money to the person designated by the customer prior to receipt of a written request for a refund;

(c) The licensee or its authorized delegate has reason to believe that a crime has occurred, is occurring, or may potentially occur as a result of transmitting the money as requested by the customer or refunding the money as requested by the customer; or

(d) The licensee is otherwise barred by law from making a refund.

NEW SECTION. Sec. 36. PROHIBITED PRACTICES. It is a violation of this chapter for any licensee, executive officer, responsible individual, or other person subject to this chapter in connection with the provision of money services to:

(1) Directly or indirectly employ any scheme, device, or artifice to defraud or mislead any person, including but not limited to engaging in bait and switch advertising or sales practices;

(2) Directly or indirectly engage in any unfair or deceptive act or practice toward any person, including but not limited to any false or deceptive statement about fees or other terms of a money transmission or currency exchange;

(3) Directly or indirectly obtain property by fraud or misrepresentation;

(4) Knowingly make, publish, or disseminate any false, deceptive, or misleading information in the provision of money services;

(5) Knowingly receive or take possession for personal use of any property of any money services business, other than in payment for services rendered, and with intent to defraud, omit to make, or cause or direct to omit to make, a full and true entry thereof in the books and accounts of the business;

(6) Make or concur in making any false entry, or omit or concur in omitting any material entry, in the books or accounts of the business;

(7) Knowingly make or publish to the director or director's designee, or concur in making or publishing to the director or director's designee any written report, exhibit, or statement of its affairs or pecuniary condition containing any material statement which is false, or omit or concur in omitting any statement required by law to be contained therein; or

(8) Fail to make any report or statement lawfully required by the director or other public official.

NEW SECTION. Sec. 37. EFFECTIVE DATE. This act takes effect October 1, 2003.

NEW SECTION. Sec. 38. IMPLEMENTATION. The director or the director's designee may take such steps as are necessary to ensure that this act is implemented on its effective date. In particular, the director or the director's designee shall conduct outreach to small businesses and immigrant communities to enhance awareness of and compliance with state and federal laws governing

money transmission and currency exchange, and to provide technical assistance in applying for a license under this chapter and understanding the requirements of this chapter.

NEW SECTION. Sec. 39. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

NEW SECTION. Sec. 40. SEVERABILITY CLAUSE. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 41. CAPTIONS NOT LAW. Captions used in this chapter are not any part of the law.

NEW SECTION. Sec. 42. Sections 1 through 41 of this act constitute a new chapter in Title 19 RCW.

Passed by the House April 23, 2003.

Passed by the Senate April 8, 2003.

Approved by the Governor May 14, 2003.

Filed in Office of Secretary of State May 14, 2003.

CHAPTER 288

[Substitute House Bill 1219]

SECURITIES PROSECUTION FUND

AN ACT Relating to violations connected with the offer, sale, or purchase of securities; amending RCW 43.320.110, 21.20.400, 21.20.110, 21.20.390, 21.20.395, and 9A.20.021; adding a new section to chapter 43.320 RCW; and prescribing penalties.

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

Sec. 1. RCW 43.320.110 and 2002 c 371 s 912 are each amended to read as follows:

There is created a local fund known as the "financial services regulation fund" which shall consist of all moneys received by the divisions of the department of financial institutions, except for the division of securities which shall deposit thirteen percent of all moneys received, except as provided in section 2 of this act, and which shall be used for the purchase of supplies and necessary equipment; the payment of salaries, wages, and utilities; the establishment of reserves; and other incidental costs required for the proper regulation of individuals and entities subject to regulation by the department. The state treasurer shall be the custodian of the fund. Disbursements from the fund shall be on authorization of the director of financial institutions or the director's designee. In order to maintain an effective expenditure and revenue control, the fund shall be subject in all respects to chapter 43.88 RCW, but no appropriation is required to permit expenditures and payment of obligations from the fund.

~~((Between July 1, 2001, and December 31, 2001, the legislature may transfer up to two million dollars from the financial services regulation fund to the digital government revolving account. During the 2001-2003 fiscal~~

~~biennium, the legislature may transfer from the financial services regulation fund to the state general fund such amounts as reflect the excess fund balance of the fund and appropriations reductions made by the 2002 supplemental appropriations act for administrative efficiencies and savings.))~~

NEW SECTION. Sec. 2. A new section is added to chapter 43.320 RCW to read as follows:

(1) The securities prosecution fund is created in the custody of the state treasurer and shall consist of all fines received by the division of securities under RCW 21.20.400(2), 21.20.110, and 21.20.395 and all undistributed funds from orders of disgorgement and restitution under RCW 21.20.110(8) and 21.20.390(6). No appropriation is required to permit expenditures from this fund, but the account is subject to allotment procedures under chapter 43.88 RCW.

(2) Expenditures from this fund may be used solely for administering the fund and for payment of costs, expenses, and charges incurred in the preparation, initiation, and prosecution of criminal charges for violations of chapters 21.20, 21.30, 19.100, and 19.110 RCW. Only the director or the director's designee may authorize expenditures from the fund.

(3) Applications for fund expenditures must be submitted by the attorney general or the proper prosecuting attorney to the director. The application must clearly identify the alleged criminal violations identified in subsection (2) of this section and indicate the purpose for which the funds will be used. The application must also certify that any funds received will be expended only for the purpose requested. Funding requests must be approved by the director prior to any expenditure being incurred by the requesting attorney general or prosecuting attorney. At the conclusion of the prosecution, the attorney general or prosecuting attorney shall provide the director with an accounting of fund expenditures, a summary of the case, and certify his or her compliance with any rules adopted by the director relating to the administration of the fund.

(4) If the balance of the securities prosecution fund reaches three hundred fifty thousand dollars, all fines received by the division of securities under RCW 21.20.400(2), 21.20.110, and 21.20.395 and all undistributed funds from orders of disgorgement and restitution under RCW 21.20.110(8) and 21.20.390(6) shall be deposited in the financial services regulation fund until such time as the balance in the fund falls below three hundred fifty thousand dollars, at which time the fines received by the division of securities under RCW 21.20.400(2), 21.20.110, and 21.20.395 and all undistributed funds from orders of disgorgement and restitution under RCW 21.20.110(8) and 21.20.390(6) shall be deposited to the securities prosecution fund until balance in the fund once again reaches three hundred fifty thousand dollars.

Sec. 3. RCW 21.20.400 and 1979 ex.s. c 68 s 28 are each amended to read as follows:

(1) Any person who willfully violates any provision of this chapter except RCW 21.20.350, or who willfully violates any rule or order under this chapter, or who willfully violates RCW 21.20.350 knowing the statement made to be false or misleading in any material respect, ~~((shall upon conviction be fined not more than five thousand dollars or imprisoned not more than ten years, or both; but no))~~ is guilty of a class B felony punishable under RCW 9A.20.021(1)(b).

However, a person may not be imprisoned for the violation of any rule or order if that person proves that he or she had no knowledge of the rule or order.

(2) Any person who knowingly alters, destroys, shreds, mutilates, or conceals a record, document, or other object, or attempts to do so, with the intent to impair the object's integrity or availability for use in an official proceeding under this chapter, is guilty of a class B felony punishable under RCW 9A.20.021(1)(b) or punishable by a fine of not more than five hundred thousand dollars, or both. The fines paid under this subsection shall be deposited into the securities prosecution fund.

(3) No indictment or information may be returned under this chapter more than (a) five years after the ((alleged)) violation, or (b) three years after the actual discovery of the violation, whichever date of limitation is later.

Sec. 4. RCW 21.20.110 and 2002 c 65 s 4 are each amended to read as follows:

(1) The director may by order deny, suspend, revoke, restrict, condition, or limit any application or registration of any broker-dealer, salesperson, investment adviser representative, or investment adviser; or censure or fine the registrant or an officer, director, partner, or person ((occupying)) performing similar functions for a registrant; if the director finds that the order is in the public interest and that the applicant or registrant or, in the case of a broker-dealer or investment adviser, any partner, officer, director, or person ((occupying)) performing similar functions:

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

(b) Has willfully violated or willfully failed to comply with any provision of this chapter or a predecessor act or any rule or order under this chapter or a predecessor act, or any provision of chapter 21.30 RCW or any rule or order thereunder;

(c) Has been convicted, within the past ten years, of any misdemeanor involving a security, or a commodity contract or commodity option as defined in RCW 21.30.010, or any aspect of the securities, commodities, business investments, franchises, business opportunities, insurance, banking, or finance business, or any felony involving moral turpitude;

(d) Is permanently or temporarily enjoined or restrained by any court of competent jurisdiction in an action brought by the director, a state, or a federal government agency from engaging in or continuing any conduct or practice involving any aspect of the securities, commodities, business investments, franchises, business opportunities, insurance, banking, or finance business;

(e) Is the subject of an order entered after notice and opportunity for hearing:

(i) By the securities administrator of a state or by the Securities and Exchange Commission denying, revoking, barring, or suspending registration as a broker-dealer, salesperson, investment adviser, or investment adviser representative;

(ii) By the securities administrator of a state or by the Securities and Exchange Commission (~~((sanctioning))~~) against a broker-dealer (~~((or an))~~), salesperson, investment adviser, or an investment adviser representative;

(iii) By the Securities and Exchange Commission or self-regulatory organization suspending or expelling the registrant from membership in a self-regulatory organization; or

(iv) By a court adjudicating a United States Postal Service fraud;

The director may not commence a revocation or suspension proceeding more than one year after the date of the order relied on. The director may not enter an order on the basis of an order under another state securities act unless that order was based on facts that would constitute a ground for an order under this section;

(f) Is the subject of an order, adjudication, or determination, after notice and opportunity for hearing, by the Securities and Exchange Commission, the Commodities Futures Trading Commission, the Federal Trade Commission, or a securities or insurance regulator of any state that the person has (~~((willfully))~~) violated the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Commodities Exchange Act, the securities, insurance, or commodities law of any state, or a federal or state law under which a business involving investments, franchises, business opportunities, insurance, banking, or finance is regulated;

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

(h) Is insolvent, either in the sense that his or her liabilities exceed his or her assets or in the sense that he or she cannot meet his or her obligations as they mature; but the director may not enter an order against an applicant or registrant under this subsection (1)(h) without a finding of insolvency as to the applicant or registrant;

(i) Has not complied with a condition imposed by the director under RCW 21.20.100, or is not qualified on the basis of such factors as training, experience, or knowledge of the securities business, except as otherwise provided in subsection (2) of this section;

(j) Has failed to supervise reasonably a salesperson or an investment adviser representative, or employee, if the salesperson, investment adviser representative, or employee was subject to the person's supervision and committed a violation of this chapter or a rule adopted or order issued under this chapter. For the purposes of this subsection, no person fails to supervise reasonably another person, if:

(i) There are established procedures, and a system for applying those procedures, that would reasonably be expected to prevent and detect, insofar as practicable, any violation by another person of this chapter, or a rule or order under this chapter; and

(ii) The supervising person has reasonably discharged the duties and obligations required by these procedures and system without reasonable cause to believe that another person was violating this chapter or rules or orders under this chapter;

(k) Has failed to pay the proper filing fee within thirty days after being notified by the director of a deficiency, but the director shall vacate an order under this subsection (1)(k) when the deficiency is corrected;

(l) Within the past ten years has been found, after notice and opportunity for a hearing to have:

(i) ~~((Willfully))~~ Violated the law of a foreign jurisdiction governing or regulating the business of securities, commodities, insurance, or banking;

(ii) Been the subject of an order of a securities regulator of a foreign jurisdiction denying, revoking, or suspending the right to engage in the business of securities as a broker-dealer, agent, investment adviser, or investment adviser representative; or

(iii) Been suspended or expelled from membership by a securities exchange or securities association operating under the authority of the securities regulator of a foreign jurisdiction;

(m) Is the subject of a cease and desist order issued by the Securities and Exchange Commission or issued under the securities or commodities laws of a state; or

(n) Refuses to allow or otherwise impedes the director from conducting an audit, examination, or inspection, or refuses access to any branch office or business location to conduct an audit, examination, or inspection.

(2) The director, by rule or order, may require that an examination, including an examination developed or approved by an organization of securities administrators, be taken by any class of or all applicants. The director, by rule or order, may waive the examination as to a person or class of persons if the administrator determines that the examination is not necessary or appropriate in the public interest or for the protection of investors.

(3) The director may issue a summary order pending final determination of a proceeding under this section upon a finding that it is in the public interest and necessary or appropriate for the protection of investors.

(4) The director may not impose a fine under this section except after notice and opportunity for hearing. The fine imposed under this section may not exceed ~~((five))~~ ten thousand dollars for each act or omission that constitutes the basis for issuing the order. If a petition for judicial review has not been timely filed under RCW 34.05.542(2), a certified copy of the director's order requiring payment of the fine may be filed in the office of the clerk of the superior court in any county of this state. The clerk shall treat the order of the director in the same manner as a judgment of the superior court. The director's order so filed has the same effect as a judgment of the superior court and may be recorded, enforced, or satisfied in like manner.

(5) Withdrawal from registration as a broker-dealer, salesperson, investment adviser, or investment adviser representative becomes effective thirty days after receipt of an application to withdraw or within such shorter period as the administrator determines, unless a revocation or suspension proceeding is pending when the application is filed. If a proceeding is pending, withdrawal becomes effective upon such conditions as the director, by order, determines. If no proceeding is pending or commenced and withdrawal automatically becomes effective, the administrator may nevertheless commence a revocation or suspension proceeding under subsection (1)(b) of this section within one year after withdrawal became effective and enter a revocation or suspension order as of the last date on which registration was effective.

(6) A person who, directly or indirectly, controls a person not in compliance with any part of this section may also be sanctioned to the same extent as the

noncomplying person, unless the controlling person acted in good faith and did not directly or indirectly induce the conduct constituting the violation or cause of action.

(7) In any action under subsection (1) of this section, the director may charge the costs, fees, and other expenses incurred by the director in the conduct of any administrative investigation, hearing, or court proceeding against any person found to be in violation of any provision of this section or any rule or order adopted under this section.

(8) In any action under subsection (1) of this section, the director may enter an order requiring an accounting, restitution, and disgorgement, including interest at the legal rate under RCW 4.56.110(3). The director may by rule or order provide for payments to investors, rates of interest, periods of accrual, and other matters the director deems appropriate to implement this subsection.

(9) The director shall immediately suspend the license or certificate of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be automatic upon the director's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

Sec. 5. RCW 21.20.390 and 1995 c 46 s 7 are each amended to read as follows:

Whenever it appears to the director that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this chapter or any rule or order hereunder, the director may in his or her discretion:

(1) Issue an order directing the person to cease and desist from continuing the act or practice and to take appropriate affirmative action within a reasonable period of time, as prescribed by the director, to correct conditions resulting from the act or practice including, without limitation, a requirement to provide restitution(~~(= PROVIDED, That)~~). Reasonable notice of and opportunity for a hearing shall be given(~~(= PROVIDED, FURTHER, That)~~). The director may issue a ~~((temporary))~~ summary order pending the hearing which shall remain in effect until ten days after the hearing is held and which shall become final if the person to whom notice is addressed does not request a hearing within ~~((fifteen))~~ twenty days after the receipt of notice; or

(2) The director may without issuing a cease and desist order, bring an action in any court of competent jurisdiction to enjoin any such acts or practices and to enforce compliance with this chapter or any rule or order ~~((hereunder))~~ adopted under this chapter. The court may grant such ancillary relief, including a civil penalty, restitution, and disgorgement, as it deems appropriate. Upon a proper showing a permanent or temporary injunction, restraining order, or writ of mandamus shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets. The director may not be required to post a bond. If the director prevails, the director shall be entitled to a reasonable attorney's fee to be fixed by the court.

(3) Whenever it appears to the director that any person who has received a permit to issue, sell, or otherwise dispose of securities under this chapter, whether current or otherwise, has become insolvent, the director may petition a

court of competent jurisdiction to appoint a receiver or conservator for the defendant or the defendant's assets. The director may not be required to post a bond.

(4) The director may bring an action for restitution or damages on behalf of the persons injured by a violation of this chapter, if the court finds that private civil action would be so burdensome or expensive as to be impractical.

(5) In any action under this section, the director may charge the costs, fees, and other expenses incurred by the director in the conduct of any administrative investigation, hearing, or court proceeding against any person found to be in violation of any provision of this section or any rule or order adopted under this section.

(6) In any action under subsection (1) of this section, the director may enter an order requiring an accounting, restitution, and disgorgement, including interest at the legal rate under RCW 4.56.110(3). The director may by rule or order provide for payments to investors, interest rates, periods of accrual, and other matters the director deems appropriate to implement this subsection.

Sec. 6. RCW 21.20.395 and 1998 c 15 s 18 are each amended to read as follows:

(1) A person who, in an administrative action by the director, is found to have knowingly or recklessly violated any provision of this chapter, or any rule or order under this chapter, may be fined, after notice and opportunity for hearing, in an amount not to exceed (~~(five)~~) ten thousand dollars for each violation.

(2) A person who, in an administrative action by the director, is found to have knowingly or recklessly violated an administrative order issued under RCW 21.20.110 or 21.20.390 shall pay an administrative fine in an amount not to exceed twenty-five thousand dollars for each violation.

(3) The fines paid under subsections (1) and (2) of this section shall be deposited into the securities prosecution fund.

(4) If a petition for judicial review has not been timely filed under RCW 34.05.542(2), a certified copy of the director's order requiring payment of the fine may be filed in the office of the clerk of the superior court in any county of this state. The clerk shall treat the order of the director in the same manner as a judgment of the superior court. The director's order so filed has the same effect as a judgment of the superior court and may be recorded, enforced, or satisfied in like manner.

Sec. 7. RCW 9A.20.021 and 1982 c 192 s 10 are each amended to read as follows:

(1) Felony. Unless a different maximum sentence for a classified felony is specifically established by statute, no person convicted of a classified felony shall be punished by confinement or fine exceeding the following:

(a) For a class A felony, by confinement in a state correctional institution for a term of life imprisonment, or by a fine in an amount fixed by the court of fifty thousand dollars, or by both such confinement and fine;

(b) For a class B felony, by confinement in a state correctional institution for a term of ten years, or by a fine in an amount fixed by the court of twenty thousand dollars, or by both such confinement and fine;

(c) For a class C felony, by confinement in a state correctional institution for five years, or by a fine in an amount fixed by the court of ten thousand dollars, or by both such confinement and fine.

(2) Gross misdemeanor. Every person convicted of a gross misdemeanor defined in Title 9A RCW shall be punished by imprisonment in the county jail for a maximum term fixed by the court of not more than one year, or by a fine in an amount fixed by the court of not more than five thousand dollars, or by both such imprisonment and fine.

(3) Misdemeanor. Every person convicted of a misdemeanor defined in Title 9A RCW shall be punished by imprisonment in the county jail for a maximum term fixed by the court of not more than ninety days, or by a fine in an amount fixed by the court of not more than one thousand dollars, or by both such imprisonment and fine.

(4) This section applies to only those crimes committed on or after July 1, 1984.

Passed by the House April 23, 2003.

Passed by the Senate April 9, 2003.

Approved by the Governor May 14, 2003.

Filed in Office of Secretary of State May 14, 2003.

CHAPTER 289

[Substitute House Bill 1081]

MORTGAGE LENDING FRAUD PROSECUTION ACCOUNT

AN ACT Relating to the mortgage lending fraud prosecution account; adding a new section to chapter 36.22 RCW; adding a new section to chapter 43.320 RCW; creating a new section; and providing expiration dates.

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

NEW SECTION. Sec. 1. A new section is added to chapter 36.22 RCW to read as follows:

(1) Except as provided in subsection (2) of this section, a surcharge of one dollar shall be charged by the county auditor at the time of recording of each deed of trust, which will be in addition to any other charge authorized by law. The auditor may retain up to five percent of the funds collected to administer collection. The remaining funds shall be transmitted monthly to the state treasurer who will deposit the funds into the mortgage lending fraud prosecution account created in section 2 of this act. The department of financial institutions is responsible for the distribution of the funds in the account and shall, in consultation with the attorney general and local prosecutors, develop rules for the use of these funds to pursue criminal prosecution of fraudulent activities within the mortgage lending process.

(2) The surcharge imposed in this section does not apply to assignments or substitutions of previously recorded deeds of trust.

(3) This section expires June 30, 2006.

NEW SECTION. Sec. 2. A new section is added to chapter 43.320 RCW to read as follows:

(1) The mortgage lending fraud prosecution account is created in the custody of the state treasurer. All receipts from the surcharge imposed in section

1 of this act, except those retained by the county auditor for administration, must be deposited into the account. Except as otherwise provided in this section, expenditures from the account may be used only for criminal prosecution of fraudulent activities related to mortgage lending fraud crimes. Only the director of the department of financial institutions or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) This section expires June 30, 2006.

NEW SECTION. Sec. 3. (1) Before December 31st of every year, the department of financial institutions shall provide the senate and house of representatives committees that address matters related to financial institutions with a written report outlining the activity of the mortgage lending fraud prosecution account.

(2) This section expires June 30, 2006.

Passed by the House April 23, 2003.

Passed by the Senate April 9, 2003.

Approved by the Governor May 14, 2003.

Filed in Office of Secretary of State May 14, 2003.

CHAPTER 290

[Substitute House Bill 1211]

PUBLIC ACCOUNTANCY ACT

AN ACT Relating to accountability requirements under the public accountancy act; amending RCW 18.04.195, 18.04.215, 18.04.295, 18.04.390, and 18.04.370; creating a new section; prescribing penalties; and providing an expiration date.

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

Sec. 1. RCW 18.04.195 and 2001 c 294 s 11 are each amended to read as follows:

(1) A sole proprietorship engaged in business in this state and offering to issue or issuing reports on financial statements or using the title CPA or certified public accountant shall license, as a firm, every three years with the board.

(a) The sole proprietor shall hold a license to practice under RCW 18.04.215;

(b) Each resident person in charge of an office located in this state shall hold a license to practice under RCW 18.04.215; and

(c) The licensed firm must meet competency requirements established by rule by the board.

(2) A partnership engaged in business in this state and offering to issue or issuing reports on financial statements or using the title CPA or certified public accountant shall license as a firm every three years with the board, and shall meet the following requirements:

(a) At least one general partner of the partnership shall hold a license to practice under RCW 18.04.215;

(b) Each resident person in charge of an office in this state shall hold a license to practice under RCW 18.04.215;

(c) A simple majority of the ownership of the licensed firm in terms of financial interests and voting rights of all partners or owners shall be held by natural persons who are licensees or holders of a valid license issued under this chapter or by another state that entitles the holder to practice public accounting in this state. The principal partner of the partnership and any partner having authority over issuing reports on financial statements shall hold a license under this chapter or issued by another state that entitles the holder to practice public accounting in this state; and

(d) The licensed firm must meet competency requirements established by rule by the board.

(3) A corporation engaged in business in this state and offering to issue or issuing reports on financial statements or using the title CPA or certified public accountant shall license as a firm every three years with the board and shall meet the following requirements:

(a) A simple majority of the ownership of the licensed firm in terms of financial interests and voting rights of all shareholders or owners shall be held by natural persons who are licensees or holders of a valid license issued under this chapter or by another state that entitles the holder to practice public accounting in this state and is principally employed by the corporation or actively engaged in its business. The principal officer of the corporation and any officer or director having authority over issuing reports on financial statements shall hold a license under this chapter or issued by another state that entitles the holder to practice public accounting in this state;

(b) At least one shareholder of the corporation shall hold a license under RCW 18.04.215;

(c) Each resident person in charge of an office located in this state shall hold a license under RCW 18.04.215;

(d) A written agreement shall bind the corporation or its shareholders to purchase any shares offered for sale by, or not under the ownership or effective control of, a qualified shareholder, and bind any holder not a qualified shareholder to sell the shares to the corporation or its qualified shareholders. The agreement shall be noted on each certificate of corporate stock. The corporation may purchase any amount of its stock for this purpose, notwithstanding any impairment of capital, as long as one share remains outstanding;

(e) The corporation shall comply with any other rules pertaining to corporations practicing public accounting in this state as the board may prescribe; and

(f) The licensed firm must meet competency requirements established by rule by the board.

(4) A limited liability company engaged in business in this state and offering to issue or issuing reports on financial statements or using the title CPA or certified public accountant shall license as a firm every three years with the board, and shall meet the following requirements:

(a) At least one member of the limited liability company shall hold a license under RCW 18.04.215;

(b) Each resident manager or member in charge of an office located in this state shall hold a license under RCW 18.04.215;

(c) A simple majority of the ownership of the licensed firm in terms of financial interests and voting rights of all owners shall be held by natural persons who are licensees or holders of a valid license issued under this chapter or by another state that entitles the holder to practice public accounting in this state. The principal member or manager of the limited liability company and any member having authority over issuing reports on financial statements shall hold a license under this chapter or issued by another state that entitles the holder to practice public accounting in this state; and

(d) The licensed firm must meet competency requirements established by rule by the board.

(5) Application for a license as a firm shall be made upon the affidavit of the proprietor or person designated as managing partner, member, or shareholder for Washington. This person shall hold a license under RCW 18.04.215. The board shall determine in each case whether the applicant is eligible for a license. A partnership, corporation, or limited liability company which is licensed to practice under RCW 18.04.215 may use the designation "certified public accountants" or "CPAs" in connection with its partnership, limited liability company, or corporate name. The board shall be given notification within ninety days after the admission or withdrawal of a partner, shareholder, or member engaged in this state in the practice of public accounting from any partnership, corporation, or limited liability company so licensed.

(6) Licensed firms which fall out of compliance with the provisions of this section due to changes in firm ownership or personnel, after receiving or renewing a license, shall notify the board in writing within ~~((thirty))~~ ninety days of its falling out of compliance and propose a time period in which they will come back into compliance. The board may grant a reasonable period of time for a firm to be in compliance with the provisions of this section. Failure to bring the firm into compliance within a reasonable period of time, as determined by the board, may result in suspension, revocation, or imposition of conditions on the firm's license.

(7) Fees for the license as a firm and for notification of the board of the admission or withdrawal of a partner, shareholder, or member shall be determined by the board. Fees shall be paid by the firm at the time the license application form or notice of admission or withdrawal of a partner, shareholder, or member is filed with the board.

(8) Nonlicensee owners of licensed firms are:

(a) Required to fully comply with the provisions of this chapter and board rules;

(b) Required to be a natural person;

(c) Required to be an active individual participant in the licensed firm or affiliated entities as these terms are defined by board rule; and

(d) Subject to discipline by the board for violation of this chapter.

(9) Resident nonlicensee owners of licensed firms are required to meet:

(a) The ethics examination, registration, and fee requirements as established by the board rules; and

(b) The ethics CPE requirements established by the board rules.

(10)(a) Licensed firms must notify the board within thirty days after:

(i) Sanction, suspension, revocation, or modification of their professional license or practice rights by the securities exchange commission, internal revenue service, or another state board of accountancy;

(ii) Sanction or order against the licensee or nonlicensee firm owner by any federal or other state agency related to the licensee's practice of public accounting or violation of ethical or technical standards established by board rule; or

(iii) The licensed firm is notified that it has been charged with a violation of law that could result in the suspension or revocation of the firm's license by a federal or other state agency, as identified by board rule, related to the firm's professional license, practice rights, or violation of ethical or technical standards established by board rule.

(b) The board must adopt rules to implement this subsection and may also adopt rules specifying requirements for licensees to report to the board sanctions or orders relating to the licensee's practice of public accounting or violation of ethical or technical standards entered against the licensee by a nongovernmental professionally related standard-setting entity.

Sec. 2. RCW 18.04.215 and 2001 c 294 s 13 are each amended to read as follows:

(1) Three-year licenses shall be issued by the board:

(a) To persons meeting the requirements of RCW 18.04.105(1), 18.04.180, or 18.04.183.

(b) To certificate holders meeting the requirements of RCW 18.04.105(4).

(c) To firms under RCW 18.04.195, meeting the requirements of RCW 18.04.205.

(2) The board shall, by rule, provide for a system of certificate and license renewal and reinstatement. Applicants for renewal or reinstatement shall, at the time of filing their applications, list with the board all states and foreign jurisdictions in which they hold or have applied for certificates, permits or licenses to practice.

(3) An inactive certificate is renewed every three years with renewal subject to the requirements of ethics CPE and the payment of fees, prescribed by the board. Failure to renew the inactive certificate shall cause the inactive certificate to lapse and be subject to reinstatement. The board shall adopt rules providing for fees and procedures for renewal and reinstatement of inactive certificates.

(4) A license is issued every three years with renewal subject to requirements of CPE and payment of fees, prescribed by the board. Failure to renew the license shall cause the license to lapse and become subject to reinstatement. Persons holding a lapsed license are prohibited from using the title "CPA" or "certified public accountant." Persons holding a lapsed license are prohibited from practicing public accountancy. The board shall adopt rules providing for fees and procedures for issuance, renewal, and reinstatement of licenses.

(5) The board shall adopt rules providing for CPE for licensees and certificate holders. The rules shall:

(a) Provide that a licensee shall verify to the board that he or she has completed at least an accumulation of one hundred twenty hours of CPE during the last three-year period to maintain the license;

(b) Establish CPE requirements; and

(c) Establish when new licensees shall verify that they have completed the required CPE.

(6) A certified public accountant who holds a license issued by another state, and applies for a license in this state, may practice in this state from the date of filing a completed application with the board, until the board has acted upon the application provided the application is made prior to holding out as a certified public accountant in this state and no sanctions or investigations, deemed by the board to be pertinent to public accountancy, by other jurisdictions or agencies are in process.

(7) A licensee shall submit to the board satisfactory proof of having completed an accumulation of one hundred twenty hours of CPE recognized and approved by the board during the preceding three years. Failure to furnish this evidence as required shall make the license lapse and subject to reinstatement procedures, unless the board determines the failure to have been due to retirement or reasonable cause.

The board in its discretion may renew a certificate or license despite failure to furnish evidence of compliance with requirements of CPE upon condition that the applicant follow a particular program of CPE. In issuing rules and individual orders with respect to CPE requirements, the board, among other considerations, may rely upon guidelines and pronouncements of recognized educational and professional associations, may prescribe course content, duration, and organization, and may take into account the accessibility of CPE to licensees and certificate holders and instances of individual hardship.

(8) Fees for renewal or reinstatement of certificates and licenses in this state shall be determined by the board under this chapter. Fees shall be paid by the applicant at the time the application form is filed with the board. The board, by rule, may provide for proration of fees for licenses or certificates issued between normal renewal dates.

(9)(a) Licensees, certificate holders, and nonlicensee owners must notify the board within thirty days after:

(i) Sanction, suspension, revocation, or modification of their professional license or practice rights by the securities exchange commission, internal revenue service, or another state board of accountancy;

(ii) Sanction or order against the licensee, certificate holder, or nonlicensee owner by any federal or other state agency related to the licensee's practice of public accounting or the licensee's, certificate holder's, or nonlicensee owner's violation of ethical or technical standards established by board rule; or

(iii) The licensee, certificate holder, or nonlicensee owner is notified that he or she has been charged with a violation of law that could result in the suspension or revocation of a license or certificate by a federal or other state agency, as identified by board rule, related to the licensee's, certificate holder's, or nonlicensee owner's professional license, practice rights, or violation of ethical or technical standards established by board rule.

(b) The board must adopt rules to implement this subsection and may also adopt rules specifying requirements for licensees, certificate holders, and nonlicensee owners to report to the board sanctions or orders relating to the licensee's practice of public accounting or the licensee's, certificate holder's, or nonlicensee owner's violation of ethical or technical standards entered against

the licensee, certificate holder, or nonlicensee owner by a nongovernmental professionally related standard-setting entity.

Sec. 3. RCW 18.04.295 and 2001 c 294 s 14 are each amended to read as follows:

The board shall have the power to: Revoke, suspend, refuse to renew, or reinstate a license or certificate; impose a fine in an amount not to exceed ~~((ten))~~ thirty thousand dollars plus the board's investigative and legal costs in bringing charges against a certified public accountant, a certificate holder, a licensee, a licensed firm, or a nonlicensee holding an ownership interest in a licensed firm; may impose full restitution to injured parties; may impose conditions precedent to renewal of a certificate or a license; or may prohibit a nonlicensee from holding an ownership interest in a licensed firm, for any of the following causes:

- (1) Fraud or deceit in obtaining a license, or in any filings with the board;
- (2) Dishonesty, fraud, or negligence while representing oneself as a nonlicensee owner holding an ownership interest in a licensed firm, a licensee, or a certificate holder;
- (3) A violation of any provision of this chapter;
- (4) A violation of a rule of professional conduct promulgated by the board under the authority granted by this chapter;
- (5) Conviction of a crime or an act constituting a crime under:
 - (a) The laws of this state;
 - (b) The laws of another state, and which, if committed within this state, would have constituted a crime under the laws of this state; or
 - (c) Federal law;
- (6) Cancellation, revocation, suspension, or refusal to renew the authority to practice as a certified public accountant by any other state for any cause other than failure to pay a fee or to meet the requirements of CPE in the other state;
- (7) Suspension or revocation of the right to practice matters relating to public accounting before any state or federal agency;

For purposes of subsections (6) and (7) of this section, a certified copy of such revocation, suspension, or refusal to renew shall be prima facie evidence;
- (8) Failure to maintain compliance with the requirements for issuance, renewal, or reinstatement of a certificate or license, or to report changes to the board;
- (9) Failure to cooperate with the board by:
 - (a) Failure to furnish any papers or documents requested or ordered by the board;
 - (b) Failure to furnish in writing a full and complete explanation covering the matter contained in the complaint filed with the board or the inquiry of the board;
 - (c) Failure to respond to subpoenas issued by the board, whether or not the recipient of the subpoena is the accused in the proceeding;
- (10) Failure by a nonlicensee owner of a licensed firm to comply with the requirements of this chapter or board rule; and
- (11) Failure to comply with an order of the board.

Sec. 4. RCW 18.04.390 and 2001 c 294 s 21 are each amended to read as follows:

(1) In the absence of an express agreement between the licensee or licensed firm and the client to the contrary, all statements, records, schedules, working papers, and memoranda made by a licensee or licensed firm incident to or in the course of professional service to clients, except reports submitted by a licensee or licensed firm, are the property of the licensee or licensed firm.

(2) No statement, record, schedule, working paper, or memorandum may be sold, transferred, or bequeathed without the consent of the client or his or her personal representative or assignee, to anyone other than one or more surviving partners, shareholders, or new partners or new shareholders of the licensee, partnership, limited liability company, or corporation, or any combined or merged partnership, limited liability company, or corporation, or successor in interest.

(3) A licensee shall furnish to the board or to his or her client or former client, upon request and reasonable notice:

(a) A copy of the licensee's working papers or electronic documents, to the extent that such working papers or electronic documents include records that would ordinarily constitute part of the client's records and are not otherwise available to the client; and

(b) Any accounting or other records belonging to, or obtained from or on behalf of, the client that the licensee removed from the client's premises or received for the client's account; the licensee may make and retain copies of such documents of the client when they form the basis for work done by him or her.

(4) ~~((Nothing in this section shall require a licensee to keep any work paper or electronic document beyond the period prescribed in any other applicable statute))~~ (a) For a period of seven years after the end of the fiscal period in which a licensed firm concludes an audit or review of a client's financial statements, the licensed firm must retain records relevant to the audit or review as determined by board rule.

(b) The board must adopt rules to implement this subsection, including rules relating to working papers and document retention.

(5) Nothing in this section should be construed as prohibiting any temporary transfer of workpapers or other material necessary in the course of carrying out peer reviews or as otherwise interfering with the disclosure of information pursuant to RCW 18.04.405.

Sec. 5. RCW 18.04.370 and 2001 c 294 s 19 are each amended to read as follows:

(1) Any person who violates any provision of this chapter, shall be guilty of a crime, as follows:

(a) Any person who violates any provision of this chapter is guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not more than ~~((ten))~~ thirty thousand dollars, or to imprisonment for not more than six months, or to both such fine and imprisonment.

(b) Notwithstanding (a) of this subsection, any person who uses a professional title intended to deceive the public, in violation of RCW 18.04.345, having previously entered into a stipulated agreement and order of assurance with the board, is guilty of a felony, and upon conviction thereof, is subject to a fine of not more than ~~((ten))~~ thirty thousand dollars, or to imprisonment for not more than two years, or to both such fine and imprisonment.

(2) With the exception of first time violations of RCW 18.04.345, subject to subsection (3) of this section whenever the board has reason to believe that any person is violating the provisions of this chapter it shall certify the facts to the prosecuting attorney of the county in which such person resides or may be apprehended and the prosecuting attorney shall cause appropriate proceedings to be brought against such person.

(3) The board may elect to enter into a stipulated agreement and orders of assurance with persons in violation of RCW 18.04.345 who have not previously been found to have violated the provisions of this chapter. The board may order full restitution to injured parties as a condition of a stipulated agreement and order of assurance.

(4) Nothing herein contained shall be held to in any way affect the power of the courts to grant injunctive or other relief as above provided.

NEW SECTION. Sec. 6. (1) By December 1, 2003, the board of accountancy shall report to the senate committee on commerce and trade and the house committee on commerce and labor, or successor committees, on the issue of auditor independence.

(2) This section expires January 1, 2004.

Passed by the House April 23, 2003.

Passed by the Senate April 16, 2003.

Approved by the Governor May 14, 2003.

Filed in Office of Secretary of State May 14, 2003.

CHAPTER 291

[Substitute House Bill 1734]

BUILDING CODES

AN ACT Relating to state building codes; amending RCW 19.27.031, 19.27.080, and 19.27.110; and creating a new section.

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

NEW SECTION. Sec. 1. (1) The intent of the adoption of the International Building Code by the legislature is to remain consistent with state laws regulating construction, including electrical, plumbing, and energy codes established in chapters 19.27, 19.27A, and 19.28 RCW. The International Building Code references the International Residential Code for provisions related to the construction of single and multiple-family dwellings. No portion of the International Residential Code shall supersede or take precedent over provisions in chapter 19.28 RCW, regulating the electrical code; nor provisions in RCW 19.27.031(4), regulating the plumbing code; nor provisions in chapter 19.27A RCW, regulating the energy code.

(2) It is in the state's interest and consistent with the state building code act to have in effect provisions regulating the construction of single and multiple-family residences. It is the legislative intent that the state building code council adopt the International Residential Code through rule making granted in RCW 19.27.074, consistent with state law regulating construction for electrical, plumbing, and energy codes, and other state and federal laws regulating single and multiple-family construction.

(3) In accordance with RCW 19.27.020, the state building code council shall promote fire and life safety in buildings consistent with accepted standards. In adopting the codes for the state of Washington, the state building code council shall consider provisions related to fire fighter safety published by nationally recognized organizations. The state building code council shall review all nationally recognized codes as set forth in RCW 19.27.074.

(4) The legislature finds that building codes are an integral component of affordable housing. In accordance with this finding, the state building code council shall consider and review building code provisions related to improving affordable housing.

Sec. 2. RCW 19.27.031 and 1995 c 343 s 1 are each amended to read as follows:

Except as otherwise provided in this chapter, there shall be in effect in all counties and cities the state building code which shall consist of the following codes which are hereby adopted by reference:

(1) ~~((Uniform))~~ (a) The International Building Code ~~((and Uniform Building Code Standards))~~, published by the International ~~((Conference of Building Officials))~~ Code Council Inc.;

(b) The International Residential Code, published by the International Code Council, Inc.;

(2) ~~((Uniform))~~ The International Mechanical Code, ((including Chapter 13, Fuel Gas Piping, Appendix B,)) published by the International ~~((Conference of Building Officials))~~ Code Council Inc., except that the standards for liquified petroleum gas installations shall be NFPA 58 (Storage and Handling of Liquified Petroleum Gases) and ANSI Z223.1/NFPA 54 (National Fuel Gas Code);

(3) The ~~((Uniform))~~ International Fire Code ~~((and Uniform Fire Code Standards))~~, published by the International ~~((Fire Code Institute))~~ Code Council Inc., including those standards of the National Fire Protection Association specifically referenced in the International Fire Code: PROVIDED, That, notwithstanding any wording in this code, participants in religious ceremonies shall not be precluded from carrying hand-held candles;

(4) Except as provided in RCW 19.27.170, the Uniform Plumbing Code and Uniform Plumbing Code Standards, published by the International Association of Plumbing and Mechanical Officials: PROVIDED, That ~~((chapters 11 and 12))~~ any provisions of such code affecting sewers or fuel gas piping are not adopted; and

(5) The rules ~~((and regulations))~~ adopted by the council establishing standards for making buildings and facilities accessible to and usable by the physically ~~((handicapped))~~ disabled or elderly persons as provided in RCW 70.92.100 through 70.92.160.

In case of conflict among the codes enumerated in subsections (1), (2), (3), and (4) of this section, the first named code shall govern over those following.

The codes enumerated in this section shall be adopted by the council as provided in RCW 19.27.074. The council shall solicit input from first responders to ensure that fire fighter safety issues are addressed during the code adoption process.

The council may issue opinions relating to the codes at the request of a local official charged with the duty to enforce the enumerated codes.

Sec. 3. RCW 19.27.080 and 1990 c 33 s 555 are each amended to read as follows:

Nothing in this chapter affects the provisions of chapters 19.27A, 19.28, 43.22, 70.77, 70.79, 70.87, 48.48, 18.20, 18.46, 18.51, 28A.305, 70.41, 70.62, 70.75, 70.108, 71.12, 74.15, 70.94, 76.04, 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. 4. RCW 19.27.110 and 1975-76 2nd ex.s. c 37 s 1 are each amended to read as follows:

Each county government shall administer and enforce the ~~((uniform))~~ International Fire Code in the unincorporated areas of the county: PROVIDED, That any political subdivision or municipal corporation providing fire protection pursuant to RCW 14.08.120 shall, at its sole option, be responsible for administration and enforcement of the ~~((uniform))~~ International Fire Code on its facility. Any fire protection district or political subdivision may, pursuant to chapter 39.34 RCW, the interlocal cooperation act, assume all or a portion of the administering responsibility and coordinate and cooperate with the county government in the enforcement of the ~~((uniform))~~ International Fire Code.

It is not the intent of RCW 19.27.110 and 19.27.111 to preclude or limit the authority of any city, town, county, fire protection district, state agency, or political subdivision from engaging in those fire prevention activities with which they are charged.

It is not the intent of the legislature by adopting the state building code or RCW 19.27.110 and 19.27.111 to grant counties any more power to suppress or extinguish fires than counties currently possess under the Constitution or other statutes.

Each county is authorized to impose fees sufficient to pay the cost of inspections, administration, and enforcement pursuant to RCW 19.27.110 and 19.27.111.

Passed by the House April 22, 2003.

Passed by the Senate April 17, 2003.

Approved by the Governor May 14, 2003.

Filed in Office of Secretary of State May 14, 2003.

CHAPTER 292

[Senate Bill 5065]

GEOLOGY—SOIL SCIENCE

AN ACT Relating to obtaining a geologist license; amending RCW 18.220.060; adding a new section to chapter 18.220 RCW; providing an expiration date; and declaring an emergency.

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

Sec. 1. RCW 18.220.060 and 2000 c 253 s 7 are each amended to read as follows:

In order to become a licensed geologist, an applicant must meet the following requirements:

(1) The applicant shall be of good moral and ethical character as attested to by letters of reference submitted by the applicant or as otherwise determined by the board;

(2) The applicant shall have graduated from a course of study in geology satisfactory to the board or satisfy educational equivalents determined by the board;

(3) The applicant shall have a documented record of a minimum of five years of experience in geology or a specialty of geology, obtained subsequent to completion of the academic requirements specified in this section, in geological work of a character satisfactory to the board, demonstrating that the applicant is qualified to assume responsible charge of such work upon licensing as a geologist. The board shall require that three years of the experience be gained under the supervision of a geologist licensed in this or any other state, or under the supervision of others who, in the opinion of the board, are qualified to have responsible charge of geological work;

(4) The applicant shall have passed an examination covering the fundamentals and practice of geology prescribed or accepted by the board;

(5) The applicant shall meet other general or individual requirements established by the board pursuant to its authority under this chapter;

(6) For licensing in any geological specialty recognized under this chapter, an applicant must first be a licensed geologist under this chapter, and then meet the following requirements:

(a) In addition to the educational requirements for licensing as a geologist defined in subsection (2) of this section, an applicant for licensing in any specialty of geology established by the board shall have successfully completed advanced study pertinent to their specialty, or equivalent seminars or on-the-job training acceptable to the board;

(b) The applicant's experience shall include a documented record of five years of experience, after completion of the academic requirements specified in this subsection, in geological work in the applicable specialty of a character satisfactory to the board, and demonstrating that the applicant is qualified to assume responsible charge of the specialty work upon licensing in that specialty of geology. The board shall require that three years of the experience be gained under the supervision of a geologist licensed in the specialty in this or any other state, or under the supervision of others who, in the opinion of the board, are qualified to have responsible charge of geological work in the specialty; and

(c) The applicant must pass an examination in the applicable specialty prescribed or accepted by the board;

(7) The following standards are applicable to experience in the practice of geology or a specialty required under subsections (3) and (6) of this section:

(a) Each year of professional practice of a character acceptable to the board, carried out under the direct supervision of a geologist who (i) is licensed in this state or is licensed in another state with licensing standards substantially similar to those under this chapter; or (ii) meets the educational and experience requirements for licensing, but who is not required to be licensed under the limitations of this chapter, qualifies as one year of professional experience in geology;

(b) Each year of professional specialty practice of a character acceptable to the board, carried out under the direct supervision of a (i) geologist who is licensed in a specialty under this chapter, or who is licensed as a specialty geologist in another state that has licensing requirements that are substantially similar to this chapter; or (ii) specialty geologist who meets the educational and

experience requirements for licensing, but who is not required to be licensed under the limitations of this chapter, qualifies as one year of practice in the applicable specialty of geology; and

(c) Experience in professional practice, of a character acceptable to the board and acquired prior to one year after July 1, 2001, qualifies if the experience (i) was acquired under the direct supervision of a geologist who meets the educational and experience requirements for licensing under this chapter, or who is licensed in another state that has licensing requirements that are substantially similar to this chapter; or (ii) would constitute responsible charge of professional geological work, as determined by the board;

(8) Each year of full-time graduate study in the geological sciences or in a specialty of geology shall qualify as one year of professional experience in geology or the applicable specialty of geology, up to a maximum of two years. The board may accept geological research, teaching of geology, or a geological specialty at the college or university level as qualifying experience, provided that such research or teaching, in the judgment of the board, is comparable to experience obtained in the practice of geology or a specialty thereof;

(9) An applicant who applies for licensing (~~within one year after July 1, 2001~~) before July 1, 2003, shall be considered to be qualified for licensing, without further written examination, if the applicant possesses the following qualifications:

(a)(i) A specific record of graduation with a bachelor of science or bachelor of arts or higher degree, with a major in geology granted by an approved institution of higher education acceptable to the board; or

(ii) Graduation from an approved institution of higher education in a four-year academic degree program other than geology, but with the required number of course hours as defined by the board to qualify as a geologist or engineering geologist; and

(b) Experience consisting of a minimum of five years of professional practice in geology or a specialty thereof as required under subsections (3) and (7) of this section, of a character acceptable to the board;

(10) An applicant who applies for licensing in a specialty within one year after recognition of the specialty under this chapter shall be considered qualified for licensing in that specialty, without further written examination, if the applicant:

(a) Is qualified for licensing as a geologist in this state; and

(b) Has experience consisting of a minimum five years of professional practice in the applicable specialty of geology as required under subsections (3) and (7) of this section, of a character acceptable to the board; and

(11) The geologists initially appointed to the board under RCW 18.220.030 shall be qualified for licensing under subsections (7) and (8) of this section.

NEW SECTION. Sec. 2. A new section is added to chapter 18.220 RCW to read as follows:

(1) This chapter permits the state, any state agency or any political subdivision of the state, or a county, city, or other public body to use the services of either a soil scientist engaging in the practice of soil science, as defined in subsection (2) of this section, or a licensed geologist or licensed specialty geologist engaging in the practice of geology, as defined in RCW 18.220.010, to perform work that is within the scope of practice of both professions.

(2) For the purpose of this section, "practice of soil science" means the performance of or offer to perform soil science work including, but not limited to, the investigation, evaluation, planning, management, classification, and mapping of soil and the interpretation of soil behavior, including surface erosion, and the inspection and responsible charge of such work.

(3) This section expires July 1, 2005.

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

Passed by the Senate April 21, 2003.

Passed by the House April 14, 2003.

Approved by the Governor May 14, 2003.

Filed in Office of Secretary of State May 14, 2003.

CHAPTER 293

[Substitute House Bill 1202]

RETIREMENT SYSTEMS—EMERGENCY MEDICAL TECHNICIANS

AN ACT Relating to allowing fire fighter emergency medical technicians to transfer public employees' retirement system service credit to the law enforcement officers' and fire fighters' plan 2; adding a new section to chapter 41.26 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 41.26 RCW under the subchapter heading "plan 2" to read as follows:

(I) A member of plan 2 who was a member of the public employees' retirement system while employed providing emergency medical services for a city, town, county, or district and whose job was relocated from another department of a city, town, county, or district to a fire department has the following options:

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

(b) Leave any service credit earned as a member of the public employees' retirement system in the public employees' retirement system, and have all future service earned in the law enforcement officers' and fire fighters' retirement system plan 2, becoming a dual member under the provisions of chapter 41.54 RCW; or

(c) Make an election no later than June 30, 2008, filed in writing with the department of retirement systems, to transfer service credit previously earned as an emergency medical technician for a city, town, county, or district in the public employees' retirement system plan 1 or plan 2 to the law enforcement officers' and fire fighters' retirement system plan 2 as defined in RCW 41.26.030. Service credit that a member elects to transfer from the public employees' retirement system to the law enforcement officers' and fire fighters' retirement system under this section shall be transferred no earlier than five years after the effective date the member elects to transfer, and only after the member earns five years of service credit as a fire fighter following the effective date the member elects to transfer.

(2) A member of plan 1 who was a member of the public employees' retirement system while employed providing emergency medical services for a

city, town, county, or district and whose job was relocated from another department of a city, town, county, or district to a fire department has the following options:

- (a) Remain a member of the public employees' retirement system; or
- (b) Leave any service credit earned as a member of the public employees' retirement system in the public employees' retirement system, and have all future service earned in the law enforcement officers' and fire fighters' retirement system plan 1.

(3)(a) A member who elects to transfer service credit under subsection (1)(c) of this section shall make the payments required by this subsection prior to having service credit earned as an emergency medical technician for a city, town, county, or district under the public employees' retirement system plan 1 or plan 2 transferred to the law enforcement officers' and fire fighters' retirement system plan 2. However, in no event shall service credit be transferred earlier than five years after the effective date the member elects to transfer, or prior to the member earning five years of service credit as a fire fighter following the effective date the member elects to transfer.

(b) A member who elects to transfer service credit under this subsection shall pay, for the applicable period of service, the difference between the contributions the employee paid to the public employees' retirement system plan 1 or plan 2 and the contributions that would have been paid by the employee had the employee been a member of the law enforcement officers' and fire fighters' retirement system plan 2, plus interest on this difference as determined by the director. This payment must be made no later than five years from the effective date of the election made under subsection (1)(c) of this section and must be made prior to retirement.

(c) No earlier than five years after the effective date the member elects to transfer service credit under this section and upon completion of the payment required in (b) of this subsection, the department shall transfer from the public employees' retirement system plan 1 or plan 2 to the law enforcement officers' and fire fighters' retirement system plan 2: (i) All of the employee's applicable accumulated contributions plus interest and an equal amount of employer contributions; and (ii) all applicable months of service, as defined in RCW 41.26.030(14)(b), credited to the employee under this chapter for service as an emergency services provider for a city, town, county, or district as though that service was rendered as a member of the law enforcement officers' and fire fighters' retirement system plan 2.

(d) Upon transfer of service credit, contributions, and interest under this subsection, the employee is permanently excluded from membership in the public employees' retirement system for all service transfers related to their time served as an emergency medical technician for a city, town, county, or district under the public employees' retirement system plan 1 or plan 2.

NEW SECTION. Sec. 2. This act expires July 1, 2013.

Passed by the House March 3, 2003.

Passed by the Senate April 10, 2003.

Approved by the Governor May 14, 2003.

Filed in Office of Secretary of State May 14, 2003.

CHAPTER 294

[House Bill 1200]

RETIREMENT SYSTEMS

AN ACT Relating to correcting retirement system statutes; amending RCW 41.04.450, 41.26.195, 41.26.460, 41.31A.020, 41.35.640, 41.40.660, 41.40.748, 41.40.801, 41.40.845, 41.45.060, 41.50.110, 41.50.700, 41.54.030, 43.43.271, 43.43.295, and 44.44.040; and providing an effective date.

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

Sec. 1. RCW 41.04.450 and 2000 c 247 s 1103 are each amended to read as follows:

(1) Employers of those members under chapters 41.26, ~~((41.40, and))~~ 41.34, 41.35, and 41.40 RCW who are not specified in RCW 41.04.445 may choose to implement the employer pick up of all member contributions without exception under RCW 41.26.080(1)(a), 41.26.450, 41.40.330(1), 41.45.060, 41.45.061, and 41.45.067 and chapter 41.34 RCW. If the employer does so choose, the employer and members shall be subject to the conditions and limitations of RCW 41.04.445 (3), (4), and (5) and RCW 41.04.455.

(2) An employer exercising the option under this section may later choose to withdraw from and/or reestablish the employer pick up of member contributions only once in a calendar year following forty-five days prior notice to the director of the department of retirement systems.

Sec. 2. RCW 41.26.195 and 1997 c 122 s 1 are each amended to read as follows:

Any member of the teachers' retirement system plans 1, 2, or 3, the public employees' retirement system plans 1 ~~((or)),~~ 2, or 3, the school employees' retirement system plans 2 or 3, or the Washington state patrol retirement system plans 1 or 2 who has previously established service credit in the law enforcement officers' and fire fighters' retirement system plan 1 may make an irrevocable election to have such service transferred to their current retirement system and plan subject to the following conditions:

(1) If the individual is employed by an employer in an eligible position, as of July 1, 1997, the election to transfer service must be filed in writing with the department no later than July 1, 1998. If the individual is not employed by an employer in an eligible position, as of July 1, 1997, the election to transfer service must be filed in writing with the department no later than one year from the date they are employed by an employer in an eligible position.

(2) An individual transferring service under this section forfeits the rights to all benefits as a member of the law enforcement officers' and fire fighters' retirement system plan 1 and will be permanently excluded from membership.

(3) Any individual choosing to transfer service under this section will have transferred to their current retirement system and plan: (a) All the individual's accumulated contributions; (b) an amount sufficient to ensure that the employer contribution rate in the individual's current system and plan will not increase due to the transfer; and (c) all applicable months of service, as defined in RCW 41.26.030(14)(a).

(4) If an individual has withdrawn contributions from the law enforcement officers' and fire fighters' retirement system plan 1, the individual may restore the contributions, together with interest as determined by the director, and

recover the service represented by the contributions for the sole purpose of transferring service under this section. The contributions must be restored before the transfer can occur and the restoration must be completed within the time limitations specified in subsection (1) of this section.

(5) Any service transferred under this section does not apply to the eligibility requirements for military service credit as defined in RCW 41.40.170(3) or 43.43.260(3).

(6) If an individual does not meet the time limitations of subsection (1) of this section, the individual may elect to restore any withdrawn contributions and transfer service under this section by paying the amount required under subsection (3)(b) of this section less any employee contributions transferred.

Sec. 3. RCW 41.26.460 and 2002 c 158 s 7 are each amended to read as follows:

(1) Upon retirement for service as prescribed in RCW 41.26.430 or disability retirement under RCW 41.26.470, a member shall elect to have the retirement allowance paid pursuant to the following options, calculated so as to be actuarially equivalent to each other.

(a) Standard allowance. A member electing this option shall receive a retirement allowance payable throughout such member's life. However, if the retiree dies before the total of the retirement allowance paid to such retiree equals the amount of such retiree's accumulated contributions at the time of retirement, then the balance shall be paid to the member's estate, or such person or persons, trust, or organization as the retiree shall have nominated by written designation duly executed and filed with the department; or if there be no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or if there be neither such designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(b) The department shall adopt rules that allow a member to select a retirement option that pays the member a reduced retirement allowance and upon death, such portion of the member's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and paid to a designated person. Such person shall be nominated by the member by written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred percent survivor option and a joint and fifty percent survivor option.

(2)(a) A member, if married, must provide the written consent of his or her spouse to the option selected under this section, except as provided in (b) of this subsection. If a member is married and both the member and member's spouse do not give written consent to an option under this section, the department will pay the member a joint and fifty percent survivor benefit and record the member's spouse as the beneficiary. Such benefit shall be calculated to be actuarially equivalent to the benefit options available under subsection (1) of this section unless spousal consent is not required as provided in (b) of this subsection.

(b) If a copy of a dissolution order designating a survivor beneficiary under RCW 41.50.790 has been filed with the department at least thirty days prior to a member's retirement:

(i) The department shall honor the designation as if made by the member under subsection (1) of this section; and

(ii) The spousal consent provisions of (a) of this subsection do not apply.

(3)(a) Any member who retired before January 1, 1996, and who elected to receive a reduced retirement allowance under subsection (1)(b) or (2) of this section is entitled to receive a retirement allowance adjusted in accordance with (b) of this subsection, if they meet the following conditions:

(i) The retiree's designated beneficiary predeceases or has predeceased the retiree; and

(ii) The retiree provides to the department proper proof of the designated beneficiary's death.

(b) The retirement allowance payable to the retiree, as of July 1, 1998, or the date of the designated beneficiary's death, whichever comes last, shall be increased by the percentage derived in (c) of this subsection.

(c) The percentage increase shall be derived by the following:

(i) One hundred percent multiplied by the result of (c)(ii) of this subsection converted to a percent;

(ii) Subtract one from the reciprocal of the appropriate joint and survivor option factor;

(iii) The joint and survivor option factor shall be from the table in effect as of July 1, 1998.

(d) The adjustment under (b) of this subsection shall accrue from the beginning of the month following the date of the designated beneficiary's death or from July 1, 1998, whichever comes last.

(4) No later than July 1, 2001, the department shall adopt rules that allow a member additional actuarially equivalent survivor benefit options, and shall include, but are not limited to:

(a)(i) A retired member who retired without designating a survivor beneficiary shall have the opportunity to designate their spouse from a postretirement marriage as a survivor during a one-year period beginning one year after the date of the postretirement marriage provided the retirement allowance payable to the retiree is not subject to periodic payments pursuant to a property division obligation as provided for in RCW 41.50.670.

(ii) A member who entered into a postretirement marriage prior to the effective date of the rules adopted pursuant to this subsection and satisfies the conditions of (a)(i) of this subsection shall have one year to designate their spouse as a survivor beneficiary following the adoption of the rules.

(b) A retired member who elected to receive a reduced retirement allowance under this section and designated a nonspouse as survivor beneficiary shall have the opportunity to remove the survivor designation and have their future benefit adjusted.

(c) The department may make an additional charge, if necessary, to ensure that the benefits provided under this subsection remain actuarially equivalent.

(5) No later than July 1, 2003, the department shall adopt rules to permit:

(a) A court-approved property settlement incident to a court decree of dissolution made before retirement to provide that benefits payable to a member who meets the length of service requirements of RCW 41.26.530(1) and the member's divorcing spouse be divided into two separate benefits payable over the life of each spouse.

The member shall have available the benefit options of subsection (1) of this section upon retirement, and if remarried at the time of retirement remains subject to the spousal consent requirements of subsection (2) of this section. Any reductions of the member's benefit subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

The nonmember ex spouse shall be eligible to commence receiving their separate benefit upon reaching the ages provided in RCW 41.26.430(1) and after filing a written application with the department.

(b) A court-approved property settlement incident to a court decree of dissolution made after retirement may only divide the benefit into two separate benefits payable over the life of each spouse if the nonmember ex spouse was selected as a survivor beneficiary at retirement.

The retired member may later choose the survivor benefit options available in subsection (4) of this section. Any actuarial reductions subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

Both the retired member and the nonmember divorced spouse shall be eligible to commence receiving their separate benefits upon filing a copy of the dissolution order with the department in accordance with RCW 41.50.670.

(c) The department may make an additional charge or adjustment if necessary to ensure that the separate benefits provided under this subsection are actuarially equivalent to the benefits payable prior to the decree of dissolution.

Sec. 4. RCW 41.31A.020 and 2000 c 247 s 408 are each amended to read as follows:

(1) On January 1, 2004, and on January 1st of even-numbered years thereafter, the member account of a person meeting the requirements of this section shall be credited by the extraordinary investment gain amount.

(2) The following persons shall be eligible for the benefit provided in subsection (1) of this section:

(a) Any member of the teachers' retirement system plan 3, the Washington school employees' retirement system plan 3, or the public employees' retirement system plan 3 who earned service credit during the twelve-month period from September 1st to August 31st immediately preceding the distribution and had a balance of at least one thousand dollars in their member account on August 31st of the year immediately preceding the distribution; or

(b) Any person in receipt of a benefit pursuant to RCW 41.32.875, 41.35.680, or 41.40.820; or

(c) Any person who is a retiree pursuant to RCW 41.34.020(8) and who:

(i) Completed ten service credit years; or

(ii) Completed five service credit years, including twelve service months after attaining age fifty-four; or

(d) Any teacher who is a retiree pursuant to RCW 41.34.020(8) and who has completed five service credit years by July 1, 1996, under plan 2 and who transferred to plan 3 under RCW 41.32.817; or

(e) Any classified employee who is a retiree pursuant to RCW 41.34.020(8) and who has completed five service credit years by September 1, 2000, and who transferred to plan 3 under RCW 41.35.510; or

(f) Any public employee who is a retiree pursuant to RCW ((41.40.010(29))) 41.34.020(8) and who has completed five service credit years by March 1, 2002, and who transferred to plan 3 under RCW 41.40.795; or

(g) Any person who had a balance of at least one thousand dollars in their member account on August 31st of the year immediately preceding the distribution and who:

(i) Completed ten service credit years; or

(ii) Completed five service credit years, including twelve service months after attaining age fifty-four; or

(h) Any teacher who had a balance of at least one thousand dollars in their member account on August 31st of the year immediately preceding the distribution and who has completed five service credit years by July 1, 1996, under plan 2 and who transferred to plan 3 under RCW 41.32.817; or

(i) Any classified employee who had a balance of at least one thousand dollars in their member account on August 31st of the year immediately preceding the distribution and who has completed five service credit years by September 1, 2000, and who transferred to plan 3 under RCW 41.35.510; or

(j) Any public employee who had a balance of at least one thousand dollars in their member account on August 31st of the year immediately preceding the distribution and who has completed five service credit years by March 1, 2002, and who transferred to plan 3 under RCW 41.40.795.

(3) The extraordinary investment gain amount shall be calculated as follows:

(a) One-half of the sum of the value of the net assets held in trust for pension benefits in the teachers' retirement system combined plan 2 and 3 fund, the Washington school employees' retirement system combined plan 2 and 3 fund, and the public employees' retirement system combined plan 2 and 3 fund at the close of the previous state fiscal year not including the amount attributable to member accounts;

(b) Multiplied by the amount which the compound average of investment returns on those assets over the previous four state fiscal years exceeds ten percent;

(c) Multiplied by the proportion of:

(i) The sum of the service credit on August 31st of the previous year of all persons eligible for the benefit provided in subsection (1) of this section; to

(ii) The sum of the service credit on August 31st of the previous year of:

(A) All persons eligible for the benefit provided in subsection (1) of this section;

(B) Any person who earned service credit in the teachers' retirement system plan 2, the Washington school employees' retirement system plan 2, or the public employees' retirement system plan 2 during the twelve-month period from September 1st to August 31st immediately preceding the distribution;

(C) Any person in receipt of a benefit pursuant to RCW 41.32.765, 41.35.420, or 41.40.630; and

(D) Any person with five or more years of service in the teachers' retirement system plan 2, the Washington school employees' retirement system plan 2, or the public employees' retirement system plan 2;

(d) Divided proportionally among persons eligible for the benefit provided in subsection (1) of this section on the basis of their service credit total on August 31st of the previous year.

(4) The legislature reserves the right to amend or repeal this section in the future and no member or beneficiary has a contractual right to receive this distribution not granted prior to that time.

Sec. 5. RCW 41.35.640 and 1998 c 341 s 205 are each amended to read as follows:

Any member or beneficiary eligible to receive a retirement allowance under the provisions of RCW 41.35.680, 41.35.690, or 41.35.710 is eligible to commence receiving a retirement allowance after having filed written application with the department.

(1) Retirement allowances paid to members shall accrue from the first day of the calendar month immediately following such member's separation from employment.

(2) Retirement allowances payable to eligible members no longer in service, but qualifying for such an allowance pursuant to RCW ((41.35.140)) 41.35.680 shall accrue from the first day of the calendar month immediately following such qualification.

(3) Disability allowances paid to disabled members shall accrue from the first day of the calendar month immediately following such member's separation from employment for disability.

(4) Retirement allowances paid as death benefits shall accrue from the first day of the calendar month immediately following the member's death.

Sec. 6. RCW 41.40.660 and 2002 c 158 s 13 are each amended to read as follows:

(1) Upon retirement for service as prescribed in RCW 41.40.630 or retirement for disability under RCW 41.40.670, a member shall elect to have the retirement allowance paid pursuant to one of the following options, calculated so as to be actuarially equivalent to each other.

(a) Standard allowance. A member electing this option shall receive a retirement allowance payable throughout such member's life. However, if the retiree dies before the total of the retirement allowance paid to such retiree equals the amount of such retiree's accumulated contributions at the time of retirement, then the balance shall be paid to the member's estate, or such person or persons, trust, or organization as the retiree shall have nominated by written designation duly executed and filed with the department; or if there be no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or if there be neither such designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(b) The department shall adopt rules that allow a member to select a retirement option that pays the member a reduced retirement allowance and upon death, such portion of the member's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and paid to a person nominated by the member by written designation duly executed and filed with the department at the time of retirement. The options adopted by the

department shall include, but are not limited to, a joint and one hundred percent survivor option and a joint and fifty percent survivor option.

(2)(a) A member, if married, must provide the written consent of his or her spouse to the option selected under this section, except as provided in (b) of this subsection. If a member is married and both the member and the member's spouse do not give written consent to an option under this section, the department shall pay a joint and fifty percent survivor benefit calculated to be actuarially equivalent to the benefit options available under subsection (1) of this section unless spousal consent is not required as provided in (b) of this subsection.

(b) If a copy of a dissolution order designating a survivor beneficiary under RCW 41.50.790 has been filed with the department at least thirty days prior to a member's retirement:

(i) The department shall honor the designation as if made by the member under subsection (1) of this section; and

(ii) The spousal consent provisions of (a) of this subsection do not apply.

(3)(a) Any member who retired before January 1, 1996, and who elected to receive a reduced retirement allowance under subsection (1)(b) or (2) of this section is entitled to receive a retirement allowance adjusted in accordance with (b) of this subsection, if they meet the following conditions:

(i) The retiree's designated beneficiary predeceases or has predeceased the retiree; and

(ii) The retiree provides to the department proper proof of the designated beneficiary's death.

(b) The retirement allowance payable to the retiree, as of July 1, 1998, or the date of the designated beneficiary's death, whichever comes last, shall be increased by the percentage derived in (c) of this subsection.

(c) The percentage increase shall be derived by the following:

(i) One hundred percent multiplied by the result of (c)(ii) of this subsection converted to a percent;

(ii) Subtract one from the reciprocal of the appropriate joint and survivor option factor;

(iii) The joint and survivor option factor shall be from the table in effect as of July 1, 1998.

(d) The adjustment under (b) of this subsection shall accrue from the beginning of the month following the date of the designated beneficiary's death or from July 1, 1998, whichever comes last.

(4) No later than July 1, 2001, the department shall adopt rules that allow a member additional actuarially equivalent survivor benefit options, and shall include, but are not limited to:

(a)(i) A retired member who retired without designating a survivor beneficiary shall have the opportunity to designate their spouse from a postretirement marriage as a survivor during a one-year period beginning one year after the date of the postretirement marriage provided the retirement allowance payable to the retiree is not subject to periodic payments pursuant to a property division obligation as provided for in RCW 41.50.670.

(ii) A member who entered into a postretirement marriage prior to the effective date of the rules adopted pursuant to this subsection and satisfies the

conditions of (a)(i) of this subsection shall have one year to designate their spouse as a survivor beneficiary following the adoption of the rules.

(b) A retired member who elected to receive a reduced retirement allowance under this section and designated a nonspouse as survivor beneficiary shall have the opportunity to remove the survivor designation and have their future benefit adjusted.

(c) The department may make an additional charge, if necessary, to ensure that the benefits provided under this subsection remain actuarially equivalent.

(5) No later than July 1, 2003, the department shall adopt rules to permit:

(a) A court-approved property settlement incident to a court decree of dissolution made before retirement to provide that benefits payable to a member who meets the length of service requirements of RCW 41.40.720 and the member's divorcing spouse be divided into two separate benefits payable over the life of each spouse.

The member shall have available the benefit options of subsection (1) of this section upon retirement, and if remarried at the time of retirement remains subject to the spousal consent requirements of subsection (2) of this section. Any reductions of the member's benefit subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

The nonmember ex spouse shall be eligible to commence receiving their separate benefit upon reaching the age provided in RCW 41.40.630(1) and after filing a written application with the department.

(b) A court-approved property settlement incident to a court decree of dissolution made after retirement may only divide the benefit into two separate benefits payable over the life of each spouse if the nonmember ex spouse was selected as a survivor beneficiary at retirement.

The retired member may later choose the survivor benefit options available in subsection (4) of this section. Any actuarial reductions subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

Both the retired member and the nonmember divorced spouse shall be eligible to commence receiving their separate benefits upon filing a copy of the dissolution order with the department in accordance with RCW 41.50.670.

~~(c) ((Any benefit distributed pursuant to chapter 41.31A RCW after the date of the dissolution order creating separate benefits for a member and nonmember ex spouse shall be paid solely to the member.~~

(d)) The department may make an additional charge or adjustment if necessary to ensure that the separate benefits provided under this subsection are actuarially equivalent to the benefits payable prior to the decree of dissolution.

Sec. 7. RCW 41.40.748 and 2002 c 269 s 1 are each amended to read as follows:

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

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

(b) Transfer service credit earned under the retirement system as a commercial vehicle enforcement officer to the Washington state patrol

retirement system by making an irrevocable choice filed in writing with the department of retirement systems within one year of the department's announcement of the ability to make such a transfer.

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

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

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

(b) For the applicable period of service, the employee shall pay:

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

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

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

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

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

Sec. 8. RCW 41.40.801 and 2000 c 247 s 305 are each amended to read as follows:

Any member or beneficiary eligible to receive a retirement allowance under the provisions of RCW 41.40.820, 41.40.825, or 41.40.835 is eligible to commence receiving a retirement allowance after having filed written application with the department.

(1) Retirement allowances paid to members shall accrue from the first day of the calendar month immediately following such member's separation from employment.

(2) Retirement allowances payable to eligible members no longer in service, but qualifying for such an allowance pursuant to RCW ~~((41.40.068))~~ 41.40.820 shall accrue from the first day of the calendar month immediately following such qualification.

(3) Disability allowances paid to disabled members shall accrue from the first day of the calendar month immediately following such member's separation from employment for disability.

(4) Retirement allowances paid as death benefits shall accrue from the first day of the calendar month immediately following the member's death.

Sec. 9. RCW 41.40.845 and 2002 c 158 s 14 are each amended to read as follows:

(1) Upon retirement for service as prescribed in RCW 41.40.820 or retirement for disability under RCW 41.40.825, a member shall elect to have the retirement allowance paid pursuant to one of the following options, calculated so as to be actuarially equivalent to each other.

(a) Standard allowance. A member electing this option shall receive a retirement allowance payable throughout such member's life. Upon the death of the member, the member's benefits shall cease.

(b) The department shall adopt rules that allow a member to select a retirement option that pays the member a reduced retirement allowance and upon death, such portion of the member's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and paid to a person nominated by the member by written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred percent survivor option and a joint and fifty percent survivor option.

(2)(a) A member, if married, must provide the written consent of his or her spouse to the option selected under this section, except as provided in (b) of this subsection. If a member is married and both the member and the member's spouse do not give written consent to an option under this section, the department shall pay a joint and fifty percent survivor benefit calculated to be actuarially equivalent to the benefit options available under subsection (1) of this section unless spousal consent is not required as provided in (b) of this subsection.

(b) If a copy of a dissolution order designating a survivor beneficiary under RCW 41.50.790 has been filed with the department at least thirty days prior to a member's retirement:

(i) The department shall honor the designation as if made by the member under subsection (1) of this section; and

(ii) The spousal consent provisions of (a) of this subsection do not apply.

~~(3) ((The department shall adopt rules that allow a member additional actuarially equivalent survivor benefit options, and shall include, but are not limited to:~~

~~(a)(i) A retired member who retired without designating a survivor beneficiary shall have the opportunity to designate their spouse from a postretirement marriage as a survivor during a one-year period beginning one year after the date of the postretirement marriage provided the retirement allowance payable to the retiree is not subject to periodic payments pursuant to a property division obligation as provided for in RCW 41.50.670.~~

~~(ii) A member who entered into a postretirement marriage prior to the effective date of the rules adopted under this section and satisfies the conditions of (a)(i) of this subsection shall have one year to designate their spouse as a survivor beneficiary following the adoption of the rules.~~

~~(b) A retired member who elected to receive a reduced retirement allowance under this section and designated a nonspouse as survivor beneficiary shall have the opportunity to remove the survivor designation and have their future benefit adjusted.~~

~~(c) The department may make an additional charge, if necessary, to ensure that the benefits provided under this subsection remain actuarially equivalent.~~

~~(4))~~ No later than July 1, 2002, the department shall adopt rules that allow a member additional actuarially equivalent survivor benefit options, and shall include, but are not limited to:

(a)(i) A retired member who retired without designating a survivor beneficiary shall have the opportunity to designate their spouse from a postretirement marriage as a survivor during a one-year period beginning one year after the date of the postretirement marriage provided the retirement allowance payable to the retiree is not subject to periodic payments pursuant to a property division obligation as provided for in RCW 41.50.670.

(ii) A member who entered into a postretirement marriage prior to the effective date of the rules adopted under this section and satisfies the conditions of (a)(i) of this subsection shall have one year to designate their spouse as a survivor beneficiary following the adoption of the rules.

(b) A retired member who elected to receive a reduced retirement allowance under this section and designated a nonspouse as survivor beneficiary shall have the opportunity to remove the survivor designation and have their future benefit adjusted.

(c) The department may make an additional charge, if necessary, to ensure that the benefits provided under this subsection remain actuarially equivalent.

~~((5))~~ (4) No later than July 1, 2003, the department shall adopt rules to permit:

(a) A court-approved property settlement incident to a court decree of dissolution made before retirement to provide that benefits payable to a member who meets the length of service requirements of RCW 41.40.820(1) and the member's divorcing spouse be divided into two separate benefits payable over the life of each spouse.

The member shall have available the benefit options of subsection (1) of this section upon retirement, and if remarried at the time of retirement remains subject to the spousal consent requirements of subsection (2) of this section. Any reductions of the member's benefit subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

The nonmember ex spouse shall be eligible to commence receiving their separate benefit upon reaching the age provided in RCW 41.40.820(1) and after filing a written application with the department.

(b) A court-approved property settlement incident to a court decree of dissolution made after retirement may only divide the benefit into two separate benefits payable over the life of each spouse if the nonmember ex spouse was selected as a survivor beneficiary at retirement.

The retired member may later choose the survivor benefit options available in subsection ~~((4))~~ (3) of this section. Any actuarial reductions subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

Both the retired member and the nonmember divorced spouse shall be eligible to commence receiving their separate benefits upon filing a copy of the dissolution order with the department in accordance with RCW 41.50.670.

(c) Any benefit distributed under chapter 41.31A RCW after the date of the dissolution order creating separate benefits for a member and nonmember ex spouse shall be paid solely to the member.

(d) The department may make an additional charge or adjustment if necessary to ensure that the separate benefits provided under this subsection are actuarially equivalent to the benefits payable prior to the decree of dissolution.

Sec. 10. RCW 41.45.060 and 2002 c 26 s 2 are each amended to read as follows:

(1) The state actuary shall provide actuarial valuation results based on the economic assumptions and asset value smoothing technique included in RCW 41.45.035 or adopted by the council under RCW 41.45.030 or 41.45.035.

(2) Not later than September 30, 2002, and every two years thereafter, consistent with the economic assumptions and asset value smoothing technique included in RCW 41.45.035 or adopted under RCW 41.45.030 or 41.45.035, the council shall adopt and may make changes to:

(a) A basic state contribution rate for the law enforcement officers' and fire fighters' retirement system;

(b) Basic employer contribution rates for the public employees' retirement system, the teachers' retirement system, and the Washington state patrol retirement system to be used in the ensuing biennial period; and

(c) A basic employer contribution rate for the school employees' retirement system for funding both that system and the public employees' retirement system plan 1.

The contribution rates adopted by the council shall be subject to revision by the legislature.

(3) The employer and state contribution rates adopted by the council shall be the level percentages of pay that are needed:

(a) To fully amortize the total costs of the public employees' retirement system plan 1, the teachers' retirement system plan 1, and the law enforcement officers' and fire fighters' retirement system plan 1 not later than June 30, 2024(~~;~~ except as provided in subsection (5) of this section));

(b) To also continue to fully fund the public employees' retirement system plans 2 and 3, the teachers' retirement system plans 2 and 3, the school employees' retirement system plans 2 and 3, and the law enforcement officers' and fire fighters' retirement system plan 2 in accordance with RCW 41.45.061, 41.45.067, and this section; and

(c) For the law enforcement officers' and fire fighters' system plan 2 the rate charged to employers, except as provided in RCW 41.26.450, shall be thirty percent of the cost of the retirement system and the rate charged to the state shall be twenty percent of the cost of the retirement system.

(4) The aggregate actuarial cost method shall be used to calculate a combined plan 2 and 3 employer contribution rate and a Washington state patrol retirement system contribution rate.

(5) The council shall immediately notify the directors of the office of financial management and department of retirement systems of the state and

employer contribution rates adopted. The rates shall be effective for the ensuing biennial period, subject to any legislative modifications.

(6) The director of the department of retirement systems shall collect the rates established in RCW 41.45.053 through June 30, 2003. Thereafter, the director shall collect those rates adopted by the council. The rates established in RCW 41.45.053, or by the council, shall be subject to revision by the council.

Sec. 11. RCW 41.50.110 and 1998 c 341 s 508 are each amended to read as follows:

(1) Except as provided by RCW 41.50.255 and subsection (6) of this section, all expenses of the administration of the department (~~and~~), the expenses of administration of the retirement systems, and the expenses of the administration of the office of the state actuary created in chapters 2.10, 2.12, 41.26, 41.32, 41.40, 41.34, 41.35, (~~and~~) 43.43, and 44.44 RCW shall be paid from the department of retirement systems expense fund.

(2) In order to reimburse the department of retirement systems expense fund on an equitable basis the department shall ascertain and report to each employer, as defined in RCW 41.26.030, 41.32.010, 41.35.010, or 41.40.010, the sum necessary to defray its proportional share of the entire expense of the administration of the retirement system that the employer participates in during the ensuing biennium or fiscal year whichever may be required. Such sum is to be computed in an amount directly proportional to the estimated entire expense of the administration as the ratio of monthly salaries of the employer's members bears to the total salaries of all members in the entire system. It shall then be the duty of all such employers to include in their budgets or otherwise provide the amounts so required.

(3) The department shall compute and bill each employer, as defined in RCW 41.26.030, 41.32.010, 41.35.010, or 41.40.010, at the end of each month for the amount due for that month to the department of retirement systems expense fund and the same shall be paid as are its other obligations. Such computation as to each employer shall be made on a percentage rate of salary established by the department. However, the department may at its discretion establish a system of billing based upon calendar year quarters in which event the said billing shall be at the end of each such quarter.

(4) 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.

(5) 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.

(6) Expenses other than those under RCW 41.34.060(~~((2))~~) (3) shall be paid pursuant to subsection (1) of this section.

Sec. 12. RCW 41.50.700 and 2002 c 158 s 6 are each amended to read as follows:

(1) Except under subsection (3) of this section and RCW 41.26.460(5), 41.32.530(5), 41.32.785(5), 41.32.851(4), 41.35.220(4), 41.40.188(5), 41.40.660(5), 41.40.845(4), 43.43.271(4), and 41.34.080, the department's obligation to provide direct payment of a property division obligation to an obligee under RCW 41.50.670 shall cease upon the death of the obligee or upon the death of the obligor, whichever comes first. However, if an obligor dies and is eligible for a lump sum death benefit, the department shall be obligated to provide direct payment to the obligee of all or a portion of the withdrawal of accumulated contributions pursuant to a court order that complies with RCW 41.50.670.

(2) The direct payment of a property division obligation to an obligee under RCW 41.50.670 shall be paid as a deduction from the member's periodic retirement payment. An obligee may not direct the department to withhold any funds from such payment.

(3) The department's obligation to provide direct payment to a nonmember ex spouse from a preretirement divorce meeting the criteria of RCW 41.26.162(2) or 43.43.270(2) may continue for the life of the member's surviving spouse qualifying for benefits under RCW 41.26.160, 41.26.161, or 43.43.270(2). Upon the death of the member's surviving spouse qualifying for benefits under RCW 41.26.160, 41.26.161, or 43.43.270(2), the department's obligation under this subsection shall cease. The department's obligation to provide direct payment to a nonmember ex spouse qualifying for a continued split benefit payment under RCW 41.26.162(3) shall continue for the life of that nonmember ex spouse.

Sec. 13. RCW 41.54.030 and 1998 c 341 s 703 are each amended to read as follows:

(1) A dual member may combine service in all systems for the purpose of:

(a) Determining the member's eligibility to receive a service retirement allowance; and

(b) Qualifying for a benefit under RCW 41.32.840(2) (~~(e)~~), 41.35.620, or 41.40.790.

(2) A dual member who is eligible to retire under any system may elect to retire from all the member's systems and to receive service retirement allowances calculated as provided in this section. Each system shall calculate the allowance using its own criteria except that the member shall be allowed to substitute the member's base salary from any system as the compensation used in calculating the allowance.

(3) The service retirement allowances from a system which, but for this section, would not be allowed to be paid at this date based on the dual member's age may be received immediately or deferred to a later date. The allowances shall be actuarially adjusted from the earliest age upon which the combined service would have made such dual member eligible in that system.

(4) The service retirement eligibility requirements of RCW 41.40.180 shall apply to any dual member whose prior system is plan 1 of the public employees' retirement system established under chapter 41.40 RCW.

Sec. 14. RCW 43.43.271 and 2002 c 158 s 16 are each amended to read as follows:

(1) A member commissioned on or after January 1, 2003, upon retirement for service as prescribed in RCW 43.43.250 (~~or disability retirement under RCW 43.43.040;~~) shall elect to have the retirement allowance paid pursuant to the following options, calculated so as to be actuarially equivalent to each other.

(a) Standard allowance. A member electing this option shall receive a retirement allowance payable throughout the member's life. However, if the retiree dies before the total of the retirement allowance paid to the retiree equals the amount of the retiree's accumulated contributions at the time of retirement, then the balance shall be paid to the member's estate, or such person or persons, trust, or organization as the retiree shall have nominated by written designation duly executed and filed with the department; or if there be no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or if there be neither such designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(b) The department shall adopt rules that allow a member to select a retirement option that pays the member a reduced retirement allowance and upon death, such portion of the member's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and paid to a designated person. Such person shall be nominated by the member by written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred percent survivor option and a joint and fifty percent survivor option.

(2)(a) A member, if married, must provide the written consent of his or her spouse to the option selected under this section, except as provided in (b) of this subsection. If a member is married and both the member and member's spouse do not give written consent to an option under this section, the department will pay the member a joint and fifty percent survivor benefit and record the member's spouse as the beneficiary. This benefit shall be calculated to be actuarially equivalent to the benefit options available under subsection (1) of this section unless spousal consent is not required as provided in (b) of this subsection.

(b) If a copy of a dissolution order designating a survivor beneficiary under RCW 41.50.790 has been filed with the department at least thirty days prior to a member's retirement:

(i) The department shall honor the designation as if made by the member under subsection (1) of this section; and

(ii) The spousal consent provisions of (a) of this subsection do not apply.

(3) No later than January 1, 2003, the department shall adopt rules that allow a member additional actuarially equivalent survivor benefit options, and shall include, but are not limited to:

(a)(i) A retired member who retired without designating a survivor beneficiary shall have the opportunity to designate their spouse from a

postretirement marriage as a survivor during a one-year period beginning one year after the date of the postretirement marriage provided the retirement allowance payable to the retiree is not subject to periodic payments pursuant to a property division obligation as provided for in RCW 41.50.670.

(ii) A member who entered into a postretirement marriage prior to the effective date of the rules adopted pursuant to this subsection and satisfies the conditions of (a)(i) of this subsection shall have one year to designate their spouse as a survivor beneficiary following the adoption of the rules.

(b) A retired member who elected to receive a reduced retirement allowance under this section and designated a nonspouse as survivor beneficiary shall have the opportunity to remove the survivor designation and have their future benefit adjusted.

(c) The department may make an additional charge, if necessary, to ensure that the benefits provided under this subsection remain actuarially equivalent.

(4) No later than July 1, 2003, the department shall adopt rules to permit:

(a) A court-approved property settlement incident to a court decree of dissolution made before retirement to provide that benefits payable to a member who has completed at least five years of service and the member's divorcing spouse be divided into two separate benefits payable over the life of each spouse.

The member shall have available the benefit options of subsection (1) of this section upon retirement, and if remarried at the time of retirement remains subject to the spousal consent requirements of subsection (2) of this section. Any reductions of the member's benefit subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

The nonmember ex spouse shall be eligible to commence receiving their separate benefit upon reaching the ages provided in RCW 43.43.250(2) and after filing a written application with the department.

(b) A court-approved property settlement incident to a court decree of dissolution made after retirement may only divide the benefit into two separate benefits payable over the life of each spouse if the nonmember ex spouse was selected as a survivor beneficiary at retirement.

The retired member may later choose the survivor benefit options available in subsection (3) of this section. Any actuarial reductions subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

Both the retired member and the nonmember divorced spouse shall be eligible to commence receiving their separate benefits upon filing a copy of the dissolution order with the department in accordance with RCW 41.50.670.

(c) The department may make an additional charge or adjustment if necessary to ensure that the separate benefits provided under this subsection are actuarially equivalent to the benefits payable prior to the decree of dissolution.

Sec. 15. RCW 43.43.295 and 2001 c 329 s 7 are each amended to read as follows:

(1) For members commissioned on or after January 1, 2003, except as provided in RCW 11.07.010, if a member or a vested member who has not completed at least ten years of service dies, the amount of the accumulated contributions standing to such member's credit in the retirement system at the time of such member's death, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed

under RCW 41.50.670, shall be paid to the member's estate, or such person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department. ~~((If there be no such designated person or persons still living at the time of the member's death, such member's accumulated contributions standing to such member's credit in the retirement system, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's estate, or such person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department.))~~ If there be no such designated person or persons still living at the time of the member's death, such member's accumulated contributions standing to such member's credit in the retirement system, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's surviving spouse as if in fact such spouse had been nominated by written designation, or if there be no such surviving spouse, then to such member's legal representatives.

(2) If a member who is eligible for retirement or a member who has completed at least ten years of service dies, the surviving spouse or eligible child or children shall elect to receive either:

(a) A retirement allowance computed as provided for in RCW 43.43.260, actuarially reduced by the amount of any lump sum benefit identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670 and actuarially adjusted to reflect a joint and one hundred percent survivor option under RCW 43.43.278 and if the member was not eligible for normal retirement at the date of death a further reduction from age fifty-five or when the member could have attained twenty-five years of service, whichever is less; if a surviving spouse who is receiving a retirement allowance dies leaving a child or children of the member under the age of majority, then such child or children shall continue to receive an allowance in an amount equal to that which was being received by the surviving spouse, share and share alike, until such child or children reach the age of majority; if there is no surviving spouse eligible to receive an allowance at the time of the member's death, such member's child or children under the age of majority shall receive an allowance share and share alike calculated under this section making the assumption that the ages of the spouse and member were equal at the time of the member's death; or

(b)(i) The member's accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670; or

(ii) If the member dies, one hundred fifty percent of the member's accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670. Any accumulated contributions attributable to restorations made under RCW 41.50.165(2) shall be refunded at one hundred percent.

(3) If a member who is eligible for retirement or a member who has completed at least ten years of service dies, and is not survived by a spouse or an eligible child, then the accumulated contributions standing to the member's

credit, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid:

(a) To an estate, a person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department; or

(b) If there is no such designated person or persons still living at the time of the member's death, then to the member's legal representatives.

**Sec. 16. RCW 44.44.040 and 1987 c 25 s 3 are each amended to read as follows:*

The office of the state actuary shall have the following powers and duties:

(1) Perform all actuarial services for the department of retirement systems, including all studies required by law. (~~Reimbursement for such services shall be made to the state actuary pursuant to the provisions of RCW 39.34.130 as now or hereafter amended.~~)

(2) Advise the legislature and the governor regarding pension benefit provisions, and funding policies and investment policies of the state investment board.

(3) Consult with the legislature and the governor concerning determination of actuarial assumptions used by the department of retirement systems.

(4) Prepare a report, to be known as the actuarial fiscal note, on each pension bill introduced in the legislature which briefly explains the financial impact of the bill. The actuarial fiscal note shall include: (a) The statutorily required contribution for the biennium and the following twenty-five years; (b) the biennial cost of the increased benefits if these exceed the required contribution; and (c) any change in the present value of the unfunded accrued benefits. An actuarial fiscal note shall also be prepared for all amendments which are offered in committee or on the floor of the house of representatives or the senate to any pension bill. However, a majority of the members present may suspend the requirement for an actuarial fiscal note for amendments offered on the floor of the house of representatives or the senate.

(5) Provide such actuarial services to the legislature as may be requested from time to time.

(6) Provide staff and assistance to the committee established under RCW (~~46.44.050~~) 44.44.050.

**Sec. 16 was vetoed. See message at end of chapter.*

NEW SECTION. **Sec. 17.** Section 4 of this act takes effect January 1, 2004.

Passed by the House February 28, 2003.

Passed by the Senate April 15, 2003.

Approved by the Governor May 14, 2003, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 14, 2003.

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

"I am returning herewith, without my approval as to section 16, House Bill No. 1200 entitled:

"AN ACT Relating to correcting retirement system statutes;"

This bill makes technical corrections to the pension statutes.

Section 16 of the bill references a section of law that is repealed by Substitute House Bill No. 1204, which I also signed today. Therefore, I am vetoing section 16 of House Bill No. 1200 to avoid confusion.

For this reason, I have vetoed section 16 of House Bill No. 1200.

With the exception of section 16, House Bill No. 1200 is approved."

CHAPTER 295

[Substitute House Bill 1204]

SELECT COMMITTEE ON PENSION POLICY

AN ACT Relating to creating the select committee on pension policy; amending RCW 41.50.110, 44.44.040, 41.40.037, 41.45.020, 41.45.090, 41.45.110, 44.04.260, and 44.44.030; reenacting and amending RCW 41.32.570; adding new sections to chapter 41.04 RCW; creating a new section; decodifying RCW 41.54.061; and repealing RCW 44.44.015, 44.44.050, and 44.44.060.

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

NEW SECTION. Sec. 1. A new section is added to chapter 41.04 RCW to read as follows:

(1) The select committee on pension policy is created. The select committee consists of:

(a) Four members of the senate appointed by the president of the senate, two of whom are members of the majority party and two of whom are members of the minority party. At least three of the appointees shall be members of the senate ways and means committee;

(b) Four members of the house of representatives appointed by the speaker, two of whom are members of the majority party and two of whom are members of the minority party. At least three of the appointees shall be members of the house of representatives appropriations committee;

(c) Four active members or representatives from organizations of active members of the state retirement systems appointed by the governor for staggered three-year terms, with no more than two appointees representing any one employee retirement system;

(d) Two retired members or representatives of retired members' organizations of the state retirement systems appointed by the governor for staggered three-year terms, with no two members from the same system;

(e) Four employer representatives of members of the state retirement systems appointed by the governor for staggered three-year terms; and

(f) The directors of the department of retirement systems and office of financial management.

(2)(a) The term of office of each member of the house of representatives or senate serving on the committee runs from the close of the session in which he or she is appointed until the close of the next regular session held in an odd-numbered year. If a successor is not appointed during a session, the member's term continues until the member is reappointed or a successor is appointed. The term of office for a committee member who is a member of the house of representatives or the senate who does not continue as a member of the senate or house of representatives ceases upon the convening of the next session of the legislature during the odd-numbered year following the member's appointment,

or upon the member's resignation, whichever is earlier. All vacancies of positions held by members of the legislature must be filled from the same political party and from the same house as the member whose seat was vacated.

(b) Following the terms of members and representatives appointed under subsection (1)(d) of this section, the retiree positions shall be rotated to ensure that each system has an opportunity to have a retiree representative on the committee.

(3) The committee shall elect a chairperson and a vice-chairperson. The chairperson shall be a member of the senate in even-numbered years and a member of the house of representatives in odd-numbered years and the vice-chairperson shall be a member of the house of representatives in even-numbered years and a member of the senate in odd-numbered years.

(4) The committee shall establish an executive committee of five members, including the chairperson, the vice-chairperson, one member from subsection (1)(c) of this section, one member from subsection (1)(e) of this section, and one member from subsection (1)(f) of this section, with the directors of the department of retirement systems and the office of financial management serving in alternate years.

(5) Nonlegislative members of the select committee serve without compensation, but shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060.

(6) The office of state actuary under chapter 44.44 RCW shall provide staff and technical support to the committee.

NEW SECTION. Sec. 2. A new section is added to chapter 41.04 RCW to read as follows:

(1) The select committee on pension policy may form three function-specific subcommittees, as set forth under subsection (2) of this section, from the members under section 1(1) (a) through (e) of this act, as follows:

(a) A public safety subcommittee with one member from each group under section 1(1) (a) through (e) of this act;

(b) An education subcommittee with one member from each group under section 1(1) (a) through (e) of this act; and

(c) A state and local government subcommittee, with one retiree member under section 1(1)(d) of this act and two members from each group under section 1(1) (a) through (c) and (e) of this act.

The retiree members may serve on more than one subcommittee to ensure representation on each subcommittee.

(2)(a) The public safety subcommittee shall focus on pension issues affecting public safety employees who are members of the law enforcement officers' and fire fighters' and Washington state patrol retirement systems.

(b) The education subcommittee shall focus on pension issues affecting educational employees who are members of the public employees', teachers', and school employees' retirement systems.

(c) The state and local government subcommittee shall focus on pension issues affecting state and local government employees who are members of the public employees' retirement system.

Sec. 3. RCW 41.50.110 and 1998 c 341 s 508 are each amended to read as follows:

(1) Except as provided by RCW 41.50.255 and subsection (6) of this section, all expenses of the administration of the department (~~((and))~~), the expenses of administration of the retirement systems, and the expenses of the administration of the office of the state actuary created in chapters 2.10, 2.12, 41.26, 41.32, 41.40, 41.34, 41.35, ~~((and)) 43.43, and 44.44~~ RCW shall be paid from the department of retirement systems expense fund.

(2) In order to reimburse the department of retirement systems expense fund on an equitable basis the department shall ascertain and report to each employer, as defined in RCW 41.26.030, 41.32.010, 41.35.010, or 41.40.010, the sum necessary to defray its proportional share of the entire expense of the administration of the retirement system that the employer participates in during the ensuing biennium or fiscal year whichever may be required. Such sum is to be computed in an amount directly proportional to the estimated entire expense of the administration as the ratio of monthly salaries of the employer's members bears to the total salaries of all members in the entire system. It shall then be the duty of all such employers to include in their budgets or otherwise provide the amounts so required.

(3) The department shall compute and bill each employer, as defined in RCW 41.26.030, 41.32.010, 41.35.010, or 41.40.010, at the end of each month for the amount due for that month to the department of retirement systems expense fund and the same shall be paid as are its other obligations. Such computation as to each employer shall be made on a percentage rate of salary established by the department. However, the department may at its discretion establish a system of billing based upon calendar year quarters in which event the said billing shall be at the end of each such quarter.

(4) 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.

(5) 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.

(6) Expenses other than those under RCW 41.34.060(~~((2))~~) (3) shall be paid pursuant to subsection (1) of this section.

Sec. 4. RCW 44.44.040 and 1987 c 25 s 3 are each amended to read as follows:

The office of the state actuary shall have the following powers and duties:

(1) Perform all actuarial services for the department of retirement systems, including all studies required by law. (~~((Reimbursement for such services shall be made to the state actuary pursuant to the provisions of RCW 39.34.130 as now or hereafter amended.))~~)

(2) Advise the legislature and the governor regarding pension benefit provisions, and funding policies and investment policies of the state investment board.

(3) Consult with the legislature and the governor concerning determination of actuarial assumptions used by the department of retirement systems.

(4) Prepare a report, to be known as the actuarial fiscal note, on each pension bill introduced in the legislature which briefly explains the financial impact of the bill. The actuarial fiscal note shall include: (a) The statutorily required contribution for the biennium and the following twenty-five years; (b) the biennial cost of the increased benefits if these exceed the required contribution; and (c) any change in the present value of the unfunded accrued benefits. An actuarial fiscal note shall also be prepared for all amendments which are offered in committee or on the floor of the house of representatives or the senate to any pension bill. However, a majority of the members present may suspend the requirement for an actuarial fiscal note for amendments offered on the floor of the house of representatives or the senate.

(5) Provide such actuarial services to the legislature as may be requested from time to time.

(6) Provide staff and assistance to the committee established under ((RCW 46.44.050)) section 1 of this act.

NEW SECTION. Sec. 5. A new section is added to chapter 41.04 RCW to read as follows:

The select committee on pension policy has the following powers and duties:

(1) Study pension issues, develop pension policies for public employees in state retirement systems, and make recommendations to the legislature;

(2) Study the financial condition of the state pension systems, develop funding policies, and make recommendations to the legislature;

(3) Consult with the chair and vice-chair on appointing members to the state actuary appointment committee upon the convening of the state actuary appointment committee established under section 13 of this act; and

(4) Receive the results of the actuarial audits of the actuarial valuations and experience studies administered by the pension funding council pursuant to RCW 41.45.110. The select committee on pension policy shall study and make recommendations on changes to assumptions or contribution rates to the pension funding council prior to adoption of changes under RCW 41.45.030, 41.45.035, or 41.45.060.

Sec. 6. RCW 41.32.570 and 2001 2nd sp.s. c 10 s 3 and 2001 c 317 s 1 are each reenacted and amended to read as follows:

(1)(a) If a retiree enters employment with an employer sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every seven hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(b) The benefit reduction provided in (a) of this subsection will accrue for a maximum of one hundred forty hours per month. Any monthly benefit reduction

over one hundred percent will be applied to the benefit the retiree is eligible to receive in subsequent months.

(2) Any retired teacher or retired administrator who enters service in any public educational institution in Washington state and who has satisfied the break in employment requirement of subsection (1) of this section shall cease to receive pension payments while engaged in such service, after the retiree has rendered service for more than one thousand five hundred hours in a school year. When a retired teacher or administrator renders service beyond eight hundred sixty-seven hours, the department shall collect from the employer the applicable employer retirement contributions for the entire duration of the member's employment during that fiscal year.

(3) The department shall collect and provide the state actuary with information relevant to the use of this section for the (~~joint~~) select committee on pension policy.

(4) The legislature reserves the right to amend or repeal this section in the future and no member or beneficiary has a contractual right to be employed for more than five hundred twenty-five hours per year without a reduction of his or her pension.

Sec. 7. RCW 41.40.037 and 2001 2nd sp.s. c 10 s 4 are each amended to read as follows:

(1)(a) If a retiree enters employment with an employer sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every eight hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(b) The benefit reduction provided in (a) of this subsection will accrue for a maximum of one hundred sixty hours per month. Any benefit reduction over one hundred percent will be applied to the benefit the retiree is eligible to receive in subsequent months.

(2)(a) A retiree from plan 1 who has satisfied the break in employment requirement of subsection (1) of this section and who enters employment with an employer may continue to receive pension payments while engaged in such service for up to one thousand five hundred hours of service in a calendar year without a reduction of pension. When a plan 1 member renders service beyond eight hundred sixty-seven hours, the department shall collect from the employer the applicable employer retirement contributions for the entire duration of the member's employment during that calendar year.

(b) A retiree from plan 2 or plan 3 who has satisfied the break in employment requirement of subsection (1) of this section may work up to eight hundred sixty-seven hours in a calendar year in an eligible position, as defined in RCW 41.32.010, 41.35.010, or 41.40.010, or as a fire fighter or law enforcement officer, as defined in RCW 41.26.030, without suspension of his or her benefit.

(3) If the retiree opts to reestablish membership under RCW 41.40.023(12), he or she terminates his or her retirement status and becomes a member. Retirement benefits shall not accrue during the period of membership and the individual shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible in accordance with RCW 41.40.180. However, if the right to retire is exercised to become effective before

the member has rendered two uninterrupted years of service, the retirement formula and survivor options the member had at the time of the member's previous retirement shall be reinstated.

(4) The department shall collect and provide the state actuary with information relevant to the use of this section for the ~~((joint))~~ select committee on pension policy.

(5) The legislature reserves the right to amend or repeal this section in the future and no member or beneficiary has a contractual right to be employed for more than five months in a calendar year without a reduction of his or her pension.

Sec. 8. RCW 41.45.020 and 2002 c 26 s 4 are each amended to read as follows:

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

(1) "Council" means the pension funding council created in RCW 41.45.100.

(2) "Department" means the department of retirement systems.

(3) "Law enforcement officers' and fire fighters' retirement system plan 1" and "law enforcement officers' and fire fighters' retirement system plan 2" means the benefits and funding provisions under chapter 41.26 RCW.

(4) "Public employees' retirement system plan 1," "public employees' retirement system plan 2," and "public employees' retirement system plan 3" mean the benefits and funding provisions under chapter 41.40 RCW.

(5) "Teachers' retirement system plan 1," "teachers' retirement system plan 2," and "teachers' retirement system plan 3" mean the benefits and funding provisions under chapter 41.32 RCW.

(6) "School employees' retirement system plan 2" and "school employees' retirement system plan 3" mean the benefits and funding provisions under chapter 41.35 RCW.

(7) "Washington state patrol retirement system" means the retirement benefits provided under chapter 43.43 RCW.

(8) "Unfunded liability" means the unfunded actuarial accrued liability of a retirement system.

(9) "Actuary" or "state actuary" means the state actuary employed under chapter 44.44 RCW.

(10) "State retirement systems" means the retirement systems listed in RCW 41.50.030.

(11) "Classified employee" means a member of the Washington school employees' retirement system plan 2 or plan 3 as defined in RCW 41.35.010.

(12) "Teacher" means a member of the teachers' retirement system as defined in RCW 41.32.010(15).

(13) "Select committee" means the select committee on pension policy created in section 1 of this act.

Sec. 9. RCW 41.45.090 and 1998 c 283 s 7 are each amended to read as follows:

The department shall collect and keep in convenient form such data as shall be necessary for an actuarial valuation of the assets and liabilities of the state retirement systems, and for making an actuarial investigation into the mortality,

service, compensation, and other experience of the members and beneficiaries of those systems. The department and state actuary shall enter into a memorandum of understanding regarding the specific data the department will collect, when it will be collected, and how it will be maintained. The department shall notify the state actuary of any changes it makes, or intends to make, in the collection and maintenance of such data.

At least once in each six-year period, the state actuary shall conduct an actuarial experience study of the mortality, service, compensation and other experience of the members and beneficiaries of each state retirement system, and into the financial condition of each system. The results of each investigation shall be filed with the department, the office of financial management, the budget writing committees of the Washington house of representatives and senate, the select committee on pension policy, and the pension funding council. Upon the basis of such actuarial investigation the department shall adopt such tables, schedules, factors, and regulations as are deemed necessary in the light of the findings of the actuary for the proper operation of the state retirement systems.

Sec. 10. RCW 41.45.110 and 1998 c 283 s 3 are each amended to read as follows:

The pension funding council shall solicit and administer a biennial actuarial audit of the actuarial valuations used for rate-setting purposes. This audit will be conducted concurrent with the actuarial valuation performed by the state actuary. At least once in each six-year period, the pension funding council shall solicit and administer an actuarial audit of the results of the experience study required in RCW 41.45.090. Upon receipt of the results of the actuarial audits required by this section, the pension funding council shall submit the results to the select committee on pension policy.

NEW SECTION. Sec. II. RCW 41.54.061 is decodified.

Sec. 12. RCW 44.04.260 and 2001 c 259 s 1 are each amended to read as follows:

The joint legislative audit and review committee, the legislative transportation committee, the ~~((joint))~~ select committee on pension policy, the legislative evaluation and accountability program committee, and the joint legislative systems committee are subject to such operational policies, procedures, and oversight as are deemed necessary by the facilities and operations committee of the senate and the executive rules committee of the house of representatives to ensure operational adequacy of the agencies of the legislative branch. As used in this section, "operational policies, procedures, and oversight" includes the development process of biennial budgets, contracting procedures, personnel policies, and compensation plans, selection of a chief administrator, facilities, and expenditures. This section does not grant oversight authority to the facilities and operations committee of the senate over any standing committee of the house of representatives or oversight authority to the executive rules committee of the house of representatives over any standing committee of the senate.

NEW SECTION. Sec. 13. (1) The state actuary appointment committee is created. The committee shall consist of: (a) The chair and ranking minority member of the house of representatives appropriations committee and the chair

and ranking minority member of the senate ways and means committee; and (b) four members of the select committee on pension policy appointed jointly by the chair and vice-chair of the select committee, at least one member representing state retirement systems active or retired members, and one member representing state retirement system employers.

(2) The state actuary appointment committee shall be jointly chaired by the chair of the house of representatives appropriations committee and the chair of the senate ways and means committee.

(3) The state actuary appointment committee shall appoint or remove the state actuary by a two-thirds vote of the committee. When considering the appointment or removal of the state actuary, the appointment committee shall consult with the director of the department of retirement systems, the director of the office of financial management, and other interested parties.

(4) The state actuary appointment committee shall be convened by the chairs of the house of representatives appropriations committee and the senate ways and means committee (a) whenever the position of state actuary becomes vacant, or (b) upon the written request of any four members of the appointment committee.

Sec. 14. RCW 44.44.030 and 2001 c 259 s 11 are each amended to read as follows:

(1) Subject to RCW 44.04.260, the state actuary shall have the authority to select and employ such research, technical, clerical personnel, and consultants as the actuary deems necessary, whose salaries shall be fixed by the actuary and approved by the ~~((joint committee on pension policy))~~ the state actuary appointment committee, and who shall be exempt from the provisions of the state civil service law, chapter 41.06 RCW.

(2) All actuarial valuations and experience studies performed by the office of the state actuary shall be signed by a member of the American academy of actuaries. If the state actuary is not such a member, the state actuary, after approval by the select committee, shall contract for a period not to exceed two years with a member of the American academy of actuaries to assist in developing actuarial valuations and experience studies.

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

(1) RCW 44.44.015 (Administration) and 2001 c 259 s 10;

(2) RCW 44.44.050 (Joint committee on pension policy—Membership, terms, leadership) and 1987 c 25 s 4; and

(3) RCW 44.44.060 (Joint committee on pension policy—Powers and duties) and 1987 c 25 s 5.

Passed by the House April 26, 2003.

Passed by the Senate April 25, 2003.

Approved by the Governor May 14, 2003.

Filed in Office of Secretary of State May 14, 2003.

CHAPTER 296

[House Bill 1356]

UTILITY AND TRANSPORTATION COMMISSION—FEES

AN ACT Relating to updating utilities and transportation commission regulatory fees; and amending RCW 80.24.010, 81.24.010, 81.24.020, 81.24.030, and 81.77.080.

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

Sec. 1. RCW 80.24.010 and 1994 c 83 s 1 are each amended to read as follows:

Every public service company subject to regulation by the commission shall, on or before the 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))~~ commission may, by rule, set minimum fees that do not exceed the cost of collecting the fees. The commission may by rule waive any or all of the minimum fee established pursuant to this section.

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.

Any payment of the fee imposed by this section made after its due date shall include a late fee of two percent of the amount due. Delinquent fees shall accrue interest at the rate of one percent per month.

Sec. 2. RCW 81.24.010 and 1996 c 196 s 1 are each amended to read as follows:

(1) Every company subject to regulation by the commission, except auto transportation companies, steamboat companies, ~~((wharfingers— or warehousemen,))~~ and motor freight carriers~~((, and storage warehousemen))~~ shall, on or before the 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. ~~((However, the fee shall in no case be less than one dollar))~~ The commission may, by rule, set minimum fees that do not exceed the cost of collecting the fees. The commission may by rule waive any or all of the minimum fee established pursuant to this section. Any railroad association that

qualifies as a notforprofit charitable organization under the federal internal revenue code section 501(c)(3) is exempt from the fee required under this subsection.

(2) 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.

Sec. 3. RCW 81.24.020 and 1997 c 215 s 1 are each amended to read as follows:

~~(By May 1st of each year)~~ On or before the date specified by the commission for filing annual reports under RCW 81.04.080, every auto transportation company must file with the commission a statement showing its gross operating revenue from intrastate operations for the preceding year and pay to the commission a fee of two-fifths of one percent of the amount of gross operating revenue. ((However, the fee paid shall in no case be less than two dollars and fifty cents.)) The commission may, by rule, set minimum fees that do not exceed the cost of collecting the fees. The commission may by rule waive any or all of the minimum fee established pursuant to this section.

The percentage rate of gross operating revenue to be paid in any period may be decreased by the commission by general order entered before the fifteenth day of the month preceding the month in which the fee is due.

Sec. 4. RCW 81.24.030 and 1993 c 427 s 10 are each amended to read as follows:

Every commercial ferry shall, on or before ~~((the first day of April of each year))~~ the 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 of two-fifths of one percent of the amount of gross operating revenue: PROVIDED, That the ((fee so paid shall in no case be less than five dollars)) commission may, by rule, set minimum fees that do not exceed the cost of collecting the fees. The commission may by rule waive any or all of the minimum fee established pursuant to this section. The percentage rate of gross operating revenue to be paid in any year may be decreased by the commission by general order entered before March 1st of such year.

Sec. 5. RCW 81.77.080 and 1989 c 431 s 24 are each amended to read as follows:

Every solid waste collection company shall, on or before ~~((the 1st day of April of each year))~~ the 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 percent of the amount of gross operating revenue: PROVIDED, That the ((fee

~~shall in no case be less than one dollar))~~ commission may, by rule, set minimum fees that do not exceed the cost of collecting the fees. The commission may by rule waive any or all of the minimum fee established pursuant to this section.

It is the intent of the legislature that the fees collected under the provisions of this chapter shall reasonably approximate the cost of supervising and regulating motor carriers subject thereto, and to that end the utilities and transportation commission is authorized to decrease the schedule of fees provided in this section by general order entered before March 1st of any year in which it determines that the moneys then in the solid waste collection companies account of the public service revolving fund and the fees currently to be paid will exceed the reasonable cost of supervising and regulating such carriers.

All fees collected under this section or under any other provision of this chapter shall be paid to the commission and shall be by it transmitted to the state treasurer within thirty days to be deposited to the credit of the public service revolving fund.

Passed by the House April 24, 2003.

Passed by the Senate April 9, 2003.

Approved by the Governor May 14, 2003.

Filed in Office of Secretary of State May 14, 2003.

CHAPTER 297

[Engrossed Substitute House Bill 1524]

UTILITY CHARGES—MOBILE HOME PARKS

AN ACT Relating to restricting utility assessments and charges for certain mobile home parks; and amending RCW 35.67.370.

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

Sec. 1. RCW 35.67.370 and 1998 c 61 s 1 are each amended to read as follows:

(1) Cities, towns, or counties may not require existing mobile home parks to replace existing, functional septic systems with a sewer system within the community unless the local board of health determines that the septic system is failing.

(2) Cities, towns, and counties are prohibited from requiring existing mobile home parks to pay a sewer service availability charge, standby charge, consumption charge, or any other similar types of charges associated with available but unused sewer service, including any interest or penalties for nonpayment or enforcement charges, until the mobile home park connects to the sewer service. When a mobile home park connects to a sewer, cities, towns, and counties may only charge mobile home parks prospectively from the date of connection for their sewer service. This act is remedial in nature and applies retroactively to 1993.

Passed by the House April 23, 2003.

Passed by the Senate April 8, 2003.

Approved by the Governor May 14, 2003.

Filed in Office of Secretary of State May 14, 2003.

CHAPTER 298

[Substitute House Bill 1707]

ENVIRONMENTAL REVIEW—GROWTH MANAGEMENT

AN ACT Relating to revising environmental review provisions to improve the development approval process and enhance economic development; amending RCW 43.21C.240; and adding a new section to chapter 43.21C RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 43.21C RCW to read as follows:

(1) In order to accommodate infill development and thereby realize the goals and policies of comprehensive plans adopted according to chapter 36.70A RCW, a city or county planning under RCW 36.70A.040 is authorized by this section to establish categorical exemptions from the requirements of this chapter. An exemption adopted under this section applies even if it differs from the categorical exemptions adopted by rule of the department under RCW 43.21C.110(1)(a). An exemption may be adopted by a city or county under this section if it meets the following criteria:

(a) It categorically exempts government action related to development that is new residential or mixed-use development proposed to fill in an urban growth area designated according to RCW 36.70A.110, where current density and intensity of use in the area is lower than called for in the goals and policies of the applicable comprehensive plan;

(b) It does not exempt government action related to development that would exceed the density or intensity of use called for in the goals and policies of the applicable comprehensive plan; and

(c) The city or county's applicable comprehensive plan was previously subjected to environmental analysis through an environmental impact statement under the requirements of this chapter prior to adoption.

(2) Any categorical exemption adopted by a city or county under this section shall be subject to the rules of the department adopted according to RCW 43.21C.110(1)(a) that provide exceptions to the use of categorical exemptions adopted by the department.

Sec. 2. RCW 43.21C.240 and 1995 c 347 s 202 are each amended to read as follows:

(1) If the requirements of subsection (2) of this section are satisfied, a county, city, or town reviewing a project action (~~may~~) shall determine that the requirements for environmental analysis, protection, and mitigation measures in the county, city, or town's development regulations and comprehensive plans adopted under chapter 36.70A RCW, and in other applicable local, state, or federal laws and rules provide adequate analysis of and mitigation for the specific adverse environmental impacts of the project action to which the requirements apply. Rules adopted by the department according to RCW 43.21C.110 regarding project specific impacts that may not have been adequately addressed apply to any determination made under this section. In these situations, in which all adverse environmental impacts will be mitigated below the level of significance as a result of mitigation measures included by changing, clarifying, or conditioning of the proposed action and/or regulatory requirements of development regulations adopted under chapter 36.70A RCW or

other local, state, or federal laws, a determination of nonsignificance or a mitigated determination of nonsignificance is the proper threshold determination.

(2) A county, city, or town (~~may~~) shall make the determination provided for in subsection (1) of this section if:

(a) In the course of project review, including any required environmental analysis, the local government considers the specific probable adverse environmental impacts of the proposed action and determines that these specific impacts are adequately addressed by the development regulations or other applicable requirements of the comprehensive plan, subarea plan element of the comprehensive plan, or other local, state, or federal rules or laws; and

(b) The local government bases or conditions its approval on compliance with these requirements or mitigation measures.

(3) If a county, city, or town's comprehensive plans, subarea plans, and development regulations adequately address a project's probable specific adverse environmental impacts, as determined under subsections (1) and (2) of this section, the county, city, or town shall not impose additional mitigation under this chapter during project review. Project review shall be integrated with environmental analysis under this chapter.

(4) A comprehensive plan, subarea plan, or development regulation shall be considered to adequately address an impact if the county, city, or town, through the planning and environmental review process under chapter 36.70A RCW and this chapter, has identified the specific adverse environmental impacts and:

(a) The impacts have been avoided or otherwise mitigated; or

(b) The legislative body of the county, city, or town has designated as acceptable certain levels of service, land use designations, development standards, or other land use planning required or allowed by chapter 36.70A RCW.

(5) In deciding whether a specific adverse environmental impact has been addressed by an existing rule or law of another agency with jurisdiction with environmental expertise with regard to a specific environmental impact, the county, city, or town shall consult orally or in writing with that agency and may expressly defer to that agency. In making this deferral, the county, city, or town shall base or condition its project approval on compliance with these other existing rules or laws.

(6) Nothing in this section limits the authority of an agency in its review or mitigation of a project to adopt or otherwise rely on environmental analyses and requirements under other laws, as provided by this chapter.

(7) This section shall apply only to a county, city, or town planning under RCW 36.70A.040.

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

Passed by the House April 21, 2003.

Passed by the Senate April 10, 2003.

Approved by the Governor May 14, 2003.

Filed in Office of Secretary of State May 14, 2003.

CHAPTER 299

[Substitute House Bill 1755]

UNINCORPORATED TERRITORY—ANNEXATION

AN ACT Relating to creating alternative means for annexation of unincorporated island of territory; amending RCW 36.70A.110; adding new sections to chapter 35.13 RCW; and adding new sections to chapter 35A.14 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 35.13 RCW to read as follows:

(1) The legislative body of a county, city, or town planning under chapter 36.70A RCW and subject to the requirements of RCW 36.70A.215 may initiate an annexation process for unincorporated territory by adopting a resolution commencing negotiations for an interlocal agreement as provided in chapter 39.34 RCW between a county and any city or town within the county. The territory proposed for annexation must meet the following criteria: (a) Be within the city or town urban growth area designated under RCW 36.70A.110, and (b) at least sixty percent of the boundaries of the territory proposed for annexation must be contiguous to the annexing city or town or one or more cities or towns.

(2) If the territory proposed for annexation has been designated in an adopted county comprehensive plan as part of an urban growth area, urban service area, or potential annexation area for a specific city or town, or if the urban growth area territory proposed for annexation has been designated in a written agreement between a city or town and a county for annexation to a specific city or town, the designation or designations shall receive full consideration before a city or county may initiate the annexation process provided for in section 2 of this act.

(3) The agreement shall describe the boundaries of the territory to be annexed. A public hearing shall be held by each legislative body, separately or jointly, before the agreement is executed. Each legislative body holding a public hearing shall, separately or jointly, publish the agreement at least once a week for two weeks before the date of the hearing in one or more newspapers of general circulation within the territory proposed for annexation.

(4) Following adoption and execution of the agreement by both legislative bodies, the city or town legislative body shall adopt an ordinance providing for the annexation of the territory described in the agreement. The legislative body shall cause notice of the proposed effective date of the annexation, together with a description of the property to be annexed, to be published at least once each week for two weeks subsequent to passage of the ordinance, in one or more newspapers of general circulation within the city and in one or more newspapers of general circulation within the territory to be annexed. If the annexation ordinance provides for assumption of indebtedness or adoption of a proposed zoning regulation, the notice shall include a statement of the requirements. Any territory to be annexed through an ordinance adopted under this section is annexed and becomes a part of the city or town upon the date fixed in the ordinance of annexation, which date may not be fewer than forty-five days after adoption of the ordinance.

NEW SECTION. Sec. 2. A new section is added to chapter 35.13 RCW to read as follows:

(1) The legislative body of any county planning under chapter 36.70A RCW and subject to the requirements of RCW 36.70A.215 may initiate an annexation process with the legislative body of any other cities or towns that are contiguous to the territory proposed for annexation in section 1 of this act if:

(a) The county legislative body initiated an annexation process as provided in section 1 of this act; and

(b) The affected city or town legislative body adopted a responsive resolution rejecting the proposed annexation or declined to create the requested interlocal agreement with the county; or

(c) More than one hundred eighty days have passed since adoption of a county resolution as provided for in section 1 of this act and the parties have not adopted or executed an interlocal agreement providing for the annexation of unincorporated territory. The legislative body for either the county or an affected city or town may, however, pass a resolution extending the negotiation period for one or more six-month periods if a public hearing is held and findings of fact are made prior to each extension.

(2) Any county initiating the process provided for in subsection (1) of this section must do so by adopting a resolution commencing negotiations for an interlocal agreement as provided in chapter 39.34 RCW between the county and any city or town within the county. The annexation area must be within an urban growth area designated under RCW 36.70A.110 and at least sixty percent of the boundaries of the territory to be annexed must be contiguous to one or more cities or towns.

(3) The agreement shall describe the boundaries of the territory to be annexed. A public hearing shall be held by each legislative body, separately or jointly, before the agreement is executed. Each legislative body holding a public hearing shall, separately or jointly, publish the agreement at least once a week for two weeks before the date of the hearing in one or more newspapers of general circulation within the territory proposed for annexation.

(4) Following adoption and execution of the agreement by both legislative bodies, the city or town legislative body shall adopt an ordinance providing for the annexation. The legislative body shall cause notice of the proposed effective date of the annexation, together with a description of the property to be annexed, to be published at least once each week for two weeks subsequent to passage of the ordinance, in one or more newspapers of general circulation within the city and in one or more newspapers of general circulation within the territory to be annexed. If the annexation ordinance provides for assumption of indebtedness or adoption of a proposed zoning regulation, the notice shall include a statement of the requirements. Any area to be annexed through an ordinance adopted under this section is annexed and becomes a part of the city or town upon the date fixed in the ordinance of annexation, which date may not be less than forty-five days after adoption of the ordinance.

(5) The annexation ordinances provided for in section 1(4) of this act and subsection (4) of this section are subject to referendum for forty-five days after passage. Upon the filing of a timely and sufficient referendum petition with the legislative body, signed by registered voters in number equal to not less than fifteen percent of the votes cast in the last general state election in the area to be annexed, the question of annexation shall be submitted to the voters of the area in a general election if one is to be held within ninety days or at a special election

called for that purpose not less than forty-five days nor more than ninety days after the filing of the referendum petition. Notice of the election shall be given as provided in RCW 35.13.080 and the election shall be conducted as provided in the general election law. The annexation shall be deemed approved by the voters unless a majority of the votes cast on the proposition are in opposition thereto.

After the expiration of the forty-fifth day from but excluding the date of passage of the annexation ordinance, if no timely and sufficient referendum petition has been filed, the area annexed shall become a part of the city or town upon the date fixed in the ordinance of annexation.

(6) If more than one city or town adopts interlocal agreements providing for annexation of the same unincorporated territory as provided by this section, an election shall be held in the area to be annexed pursuant to RCW 35.13.070 and 35.13.080. In addition to the provisions of RCW 35.13.070 and 35.13.080, the ballot shall also contain a separate proposition allowing voters to cast votes in favor of annexation to any one city or town participating in an interlocal agreement as provided by this section. If a majority of voters voting on the proposition vote against annexation, the proposition is defeated. If, however, a majority of voters voting in the election approve annexation, the area shall be annexed to the city or town receiving the highest number of votes among those cast in favor of annexation.

(7) Costs for an election required under subsection (6) of this section shall be borne by the county.

NEW SECTION. Sec. 3. A new section is added to chapter 35A.14 RCW to read as follows:

(1) The legislative body of a county or code city planning under chapter 36.70A RCW and subject to the requirements of RCW 36.70A.215 may initiate an annexation process for unincorporated territory by adopting a resolution commencing negotiations for an interlocal agreement as provided in chapter 39.34 RCW between a county and any code city within the county. The territory proposed for annexation must meet the following criteria: (a) Be within the code city urban growth area designated under RCW 36.70A.110, and (b) at least sixty percent of the boundaries of the territory proposed for annexation must be contiguous to the annexing code city or one or more cities or towns.

(2) If the territory proposed for annexation has been designated in an adopted county comprehensive plan as part of an urban growth area, urban service area, or potential annexation area for a specific city, or if the urban growth area territory proposed for annexation has been designated in a written agreement between a city and a county for annexation to a specific city or town, the designation or designations shall receive full consideration before a city or county may initiate the annexation process provided for in section 4 of this act.

(3) The agreement shall describe the boundaries of the territory to be annexed. A public hearing shall be held by each legislative body, separately or jointly, before the agreement is executed. Each legislative body holding a public hearing shall, separately or jointly, publish the agreement at least once a week for two weeks before the date of the hearing in one or more newspapers of general circulation within the territory proposed for annexation.

(4) Following adoption and execution of the agreement by both legislative bodies, the city legislative body shall adopt an ordinance providing for the

annexation of the territory described in the agreement. The legislative body shall cause notice of the proposed effective date of the annexation, together with a description of the property to be annexed, to be published at least once each week for two weeks subsequent to passage of the ordinance, in one or more newspapers of general circulation within the city and in one or more newspapers of general circulation within the territory to be annexed. If the annexation ordinance provides for assumption of indebtedness or adoption of a proposed zoning regulation, the notice shall include a statement of the requirements. Any territory to be annexed through an ordinance adopted under this section is annexed and becomes a part of the city upon the date fixed in the ordinance of annexation, which date may not be fewer than forty-five days after adoption of the ordinance.

NEW SECTION. Sec. 4. A new section is added to chapter 35A.14 RCW to read as follows:

(1) The legislative body of any county planning under chapter 36.70A RCW and subject to the requirements of RCW 36.70A.215 may initiate an annexation process with the legislative body of any other cities or towns that are contiguous to the territory proposed for annexation in section 3 of this act if:

(a) The county legislative body initiated an annexation process as provided in section 3 of this act; and

(b) The affected city legislative body adopted a responsive resolution rejecting the proposed annexation or declined to create the requested interlocal agreement with the county; or

(c) More than one hundred eighty days have passed since adoption of a county resolution as provided for in section 3 of this act and the parties have not adopted or executed an interlocal agreement providing for the annexation of unincorporated territory. The legislative body for either the county or an affected city may, however, pass a resolution extending the negotiation period for one or more six-month periods if a public hearing is held and findings of fact are made prior to each extension.

(2) Any county initiating the process provided for in subsection (1) of this section must do so by adopting a resolution commencing negotiations for an interlocal agreement as provided in chapter 39.34 RCW between the county and any city or town within the county. The annexation area must be within an urban growth area designated under RCW 36.70A.110 and at least sixty percent of the boundaries of the territory to be annexed must be contiguous to one or more cities or towns.

(3) The agreement shall describe the boundaries of the territory to be annexed. A public hearing shall be held by each legislative body, separately or jointly, before the agreement is executed. Each legislative body holding a public hearing shall, separately or jointly, publish the agreement at least once a week for two weeks before the date of the hearing in one or more newspapers of general circulation within the territory proposed for annexation.

(4) Following adoption and execution of the agreement by both legislative bodies, the city or town legislative body shall adopt an ordinance providing for the annexation. The legislative body shall cause notice of the proposed effective date of the annexation, together with a description of the property to be annexed, to be published at least once each week for two weeks subsequent to passage of the ordinance, in one or more newspapers of general circulation within the city

and in one or more newspapers of general circulation within the territory to be annexed. If the annexation ordinance provides for assumption of indebtedness or adoption of a proposed zoning regulation, the notice shall include a statement of the requirements. Any area to be annexed through an ordinance adopted under this section is annexed and becomes a part of the city or town upon the date fixed in the ordinance of annexation, which date may not be less than forty-five days after adoption of the ordinance.

(5) The annexation ordinances provided for in section 3(4) of this act and subsection (4) of this section are subject to referendum for forty-five days after passage. Upon the filing of a timely and sufficient referendum petition with the legislative body, signed by registered voters in number equal to not less than fifteen percent of the votes cast in the last general state election in the area to be annexed, the question of annexation shall be submitted to the voters of the area in a general election if one is to be held within ninety days or at a special election called for that purpose not less than forty-five days nor more than ninety days after the filing of the referendum petition. Notice of the election shall be given as provided in RCW 35A.14.070 and the election shall be conducted as provided in the general election law. The annexation shall be deemed approved by the voters unless a majority of the votes cast on the proposition are in opposition thereto.

After the expiration of the forty-fifth day from but excluding the date of passage of the annexation ordinance, if no timely and sufficient referendum petition has been filed, the area annexed shall become a part of the city or town upon the date fixed in the ordinance of annexation.

(6) If more than one city or town adopts interlocal agreements providing for annexation of the same unincorporated territory as provided by this section, an election shall be held in the area to be annexed pursuant to RCW 35A.14.070. In addition to the provisions of RCW 35A.14.070, the ballot shall also contain a separate proposition allowing voters to cast votes in favor of annexation to any one city or town participating in an interlocal agreement as provided by this section. If a majority of voters voting on the proposition vote against annexation, the proposition is defeated. If, however, a majority of voters voting in the election approve annexation, the area shall be annexed to the city or town receiving the highest number of votes among those cast in favor of annexation.

(7) Costs for an election required under subsection (6) of this section shall be borne by the county.

Sec. 5. RCW 36.70A.110 and 1997 c 429 s 24 are each amended to read as follows:

(1) Each county that is required or chooses to plan under RCW 36.70A.040 shall designate an urban growth area or areas within which urban growth shall be encouraged and outside of which growth can occur only if it is not urban in nature. Each city that is located in such a county shall be included within an urban growth area. An urban growth area may include more than a single city. An urban growth area may include territory that is located outside of a city only if such territory already is characterized by urban growth whether or not the urban growth area includes a city, or is adjacent to territory already characterized by urban growth, or is a designated new fully contained community as defined by RCW 36.70A.350.

(2) Based upon the growth management population projection made for the county by the office of financial management, the county and each city within the county shall include areas and densities sufficient to permit the urban growth that is projected to occur in the county or city for the succeeding twenty-year period. Each urban growth area shall permit urban densities and shall include greenbelt and open space areas. An urban growth area determination may include a reasonable land market supply factor and shall permit a range of urban densities and uses. In determining this market factor, cities and counties may consider local circumstances. Cities and counties have discretion in their comprehensive plans to make many choices about accommodating growth.

Within one year of July 1, 1990, each county that as of June 1, 1991, was required or chose to plan under RCW 36.70A.040, shall begin consulting with each city located within its boundaries and each city shall propose the location of an urban growth area. Within sixty days of the date the county legislative authority of a county adopts its resolution of intention or of certification by the office of financial management, all other counties that are required or choose to plan under RCW 36.70A.040 shall begin this consultation with each city located within its boundaries. The county shall attempt to reach agreement with each city on the location of an urban growth area within which the city is located. If such an agreement is not reached with each city located within the urban growth area, the county shall justify in writing why it so designated the area an urban growth area. A city may object formally with the department over the designation of the urban growth area within which it is located. Where appropriate, the department shall attempt to resolve the conflicts, including the use of mediation services.

(3) Urban growth should be located first in areas already characterized by urban growth that have adequate existing public facility and service capacities to serve such development, second in areas already characterized by urban growth that will be served adequately by a combination of both existing public facilities and services and any additional needed public facilities and services that are provided by either public or private sources, and third in the remaining portions of the urban growth areas. Urban growth may also be located in designated new fully contained communities as defined by RCW 36.70A.350.

(4) In general, cities are the units of local government most appropriate to provide urban governmental services. In general, it is not appropriate that urban governmental services be extended to or expanded in rural areas except in those limited circumstances shown to be necessary to protect basic public health and safety and the environment and when such services are financially supportable at rural densities and do not permit urban development.

(5) On or before October 1, 1993, each county that was initially required to plan under RCW 36.70A.040(1) shall adopt development regulations designating interim urban growth areas under this chapter. Within three years and three months of the date the county legislative authority of a county adopts its resolution of intention or of certification by the office of financial management, all other counties that are required or choose to plan under RCW 36.70A.040 shall adopt development regulations designating interim urban growth areas under this chapter. Adoption of the interim urban growth areas may only occur after public notice; public hearing; and compliance with the state environmental policy act, chapter 43.21C RCW, and RCW 36.70A.110. Such

action may be appealed to the appropriate growth management hearings board under RCW 36.70A.280. Final urban growth areas shall be adopted at the time of comprehensive plan adoption under this chapter.

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

(7) An urban growth area designated in accordance with this section may include within its boundaries urban service areas or potential annexation areas designated for specific cities or towns within the county.

Passed by the House April 22, 2003.

Passed by the Senate April 17, 2003.

Approved by the Governor May 14, 2003.

Filed in Office of Secretary of State May 14, 2003.

CHAPTER 300

[Engrossed Substitute House Bill 2056]

PUBLIC WORKS BIDDING

AN ACT Relating to the fairness of public works bidding; amending RCW 39.10.020, 39.10.051, 39.10.061, and 39.10.902; adding new sections to chapter 39.04 RCW; and adding new sections to chapter 39.10 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 39.04 RCW to read as follows:

When a municipality receives a written protest from a bidder for a public works project which is the subject of competitive bids, the municipality shall not execute a contract for the project with anyone other than the protesting bidder without first providing at least two full business days' written notice of the municipality's intent to execute a contract for the project; provided that the protesting bidder submits notice in writing of its protest no later than two full business days following bid opening. Intermediate Saturdays, Sundays, and legal holidays are not counted.

NEW SECTION. Sec. 2. A new section is added to chapter 39.04 RCW to read as follows:

A low bidder on a public works project who claims error and fails to enter into a contract is prohibited from bidding on the same project if a second or subsequent call for bids is made for the project.

Sec. 3. RCW 39.10.020 and 2001 c 328 s 1 are each amended to read as follows:

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

(1) "Alternative public works contracting procedure" means the design-build and the general contractor/construction manager contracting procedures authorized in RCW 39.10.051 and 39.10.061, respectively.

(2) "Public body" means the state department of general administration; the University of Washington; Washington State University; every city with a population greater than seventy thousand and any public authority chartered by such city under RCW 35.21.730 through 35.21.755 and specifically authorized as provided in RCW 39.10.120(4); every county with a population greater than

four hundred fifty thousand; every port district with total revenues greater than fifteen million dollars per year; every public hospital district with total revenues greater than fifteen million dollars per year utilizing the design-build procedure authorized by RCW 39.10.051 and every public hospital district, regardless of total revenues, proposing projects that are considered and approved by the public hospital district project review board under section 7 of this act; every public utility district with revenues from energy sales greater than twenty-three million dollars per year; and those school districts proposing projects that are considered and approved by the school district project review board under RCW 39.10.115.

(3) "Public works project" means any work for a public body within the definition of the term public work in RCW 39.04.010.

Sec. 4. RCW 39.10.051 and 2002 c 46 s 1 are each amended to read as follows:

(1) Notwithstanding any other provision of law, and after complying with RCW 39.10.030, the following public bodies may utilize the design-build procedure of public works contracting for public works projects authorized under this section: The state department of general administration; the University of Washington; Washington State University; every city with a population greater than seventy thousand and any public authority chartered by such city under RCW 35.21.730 through 35.21.755 and specifically authorized as provided in RCW 39.10.120(4); every county with a population greater than four hundred fifty thousand; every public utility district with revenues from energy sales greater than twenty-three million dollars per year; every public hospital district with total revenues greater than fifteen million dollars per year; and every port district with total revenues greater than fifteen million dollars per year. The authority granted to port districts in this section is in addition to and does not affect existing contracting authority under RCW 53.08.120 and 53.08.130. For the purposes of this section, "design-build procedure" means a contract between a public body and another party in which the party agrees to both design and build the facility, portion of the facility, or other item specified in the contract.

(2) Public bodies authorized under this section may utilize the design-build procedure for public works projects valued over ten million dollars where:

(a) The construction activities or technologies to be used are highly specialized and a design-build approach is critical in developing the construction methodology or implementing the proposed technology; or

(b) The project design is repetitive in nature and is an incidental part of the installation or construction; or

(c) Regular interaction with and feedback from facilities users and operators during design is not critical to an effective facility design.

(3) Public bodies authorized under this section may also use the design-build procedure for the following projects that meet the criteria in subsection (2)(b) and (c) of this section:

(a) The construction or erection of preengineered metal buildings or prefabricated modular buildings, regardless of cost; or

(b) The construction of new student housing projects valued over five million dollars.

(4) Contracts for design-build services shall be awarded through a competitive process utilizing public solicitation of proposals for design-build

services. The public body shall publish at least once in a legal newspaper of general circulation published in or as near as possible to that part of the county in which the public work will be done, a notice of its request for proposals for design-build services and the availability and location of the request for proposal documents. The request for proposal documents shall include:

(a) A detailed description of the project including programmatic, performance, and technical requirements and specifications, functional and operational elements, minimum and maximum net and gross areas of any building, and, at the discretion of the public body, preliminary engineering and architectural drawings;

(b) The reasons for using the design-build procedure;

(c) A description of the qualifications to be required of the proposer including, but not limited to, submission of the proposer's accident prevention program;

(d) A description of the process the public body will use to evaluate qualifications and proposals, including evaluation factors and the relative weight of factors. Evaluation factors shall include, but not be limited to: Proposal price; ability of professional personnel; past performance on similar projects; ability to meet time and budget requirements; ability to provide a performance and payment bond for the project; recent, current, and projected work loads of the firm; location; and the concept of the proposal;

(e) The form of the contract to be awarded;

(f) The amount to be paid to finalists submitting best and final proposals who are not awarded a design-build contract; and

(g) Other information relevant to the project.

(5) The public body shall establish a committee to evaluate the proposals based on the factors, weighting, and process identified in the request for proposals. Based on its evaluation, the public body shall select not fewer than three nor more than five finalists to submit best and final proposals. The public body may, in its sole discretion, reject all proposals. Design-build contracts shall be awarded using the procedures in (a) or (b) of this subsection.

(a) Best and final proposals shall be evaluated and scored based on the factors, weighting, and process identified in the initial request for proposals. The public body may score the proposals using a system that measures the quality and technical merits of the proposal on a unit price basis. Final proposals may not be considered if the proposal cost is greater than the maximum allowable construction cost identified in the initial request for proposals. The public body shall initiate negotiations with the firm submitting the highest scored best and final proposal. If the public body is unable to execute a contract with the firm submitting the highest scored best and final proposal, negotiations with that firm may be suspended or terminated and the public body may proceed to negotiate with the next highest scored firm. Public bodies shall continue in accordance with this procedure until a contract agreement is reached or the selection process is terminated.

(b) If the public body determines that all finalists are capable of producing plans and specifications that adequately meet project requirements, the public body may award the contract to the firm that submits the responsive best and final proposal with the lowest price.

(6) The firm awarded the contract shall provide a performance and payment bond for the contracted amount. The public body shall provide appropriate honorarium payments to finalists submitting best and final proposals who are not awarded a design-build contract. Honorarium payments shall be sufficient to generate meaningful competition among potential proposers on design-build projects.

Sec. 5. RCW 39.10.061 and 2002 c 46 s 2 are each amended to read as follows:

(1) Notwithstanding any other provision of law, and after complying with RCW 39.10.030, a public body may utilize the general contractor/construction manager procedure of public works contracting for public works projects authorized under subsection (2) of this section. For the purposes of this section, "general contractor/construction manager" means a firm with which a public body has selected and negotiated a maximum allowable construction cost to be guaranteed by the firm, after competitive selection through formal advertisement and competitive bids, to provide services during the design phase that may include life-cycle cost design considerations, value engineering, scheduling, cost estimating, constructability, alternative construction options for cost savings, and sequencing of work, and to act as the construction manager and general contractor during the construction phase.

(2) Except those school districts proposing projects that are considered and approved by the school district project review board and those public hospital districts proposing projects that are considered and approved by the public hospital district project review board, public bodies authorized under this section may utilize the general contractor/construction manager procedure for public works projects valued over ten million dollars where:

(a) Implementation of the project involves complex scheduling requirements; or

(b) The project involves construction at an existing facility which must continue to operate during construction; or

(c) The involvement of the general contractor/construction manager during the design stage is critical to the success of the project.

(3) Public bodies should select general contractor/construction managers early in the life of public works projects, and in most situations no later than the completion of schematic design.

(4) Contracts for the services of a general contractor/construction manager under this section shall be awarded through a competitive process requiring the public solicitation of proposals for general contractor/construction manager services. The public solicitation of proposals shall include: A description of the project, including programmatic, performance, and technical requirements and specifications when available; the reasons for using the general contractor/construction manager procedure; a description of the qualifications to be required of the proposer, including submission of the proposer's accident prevention program; a description of the process the public body will use to evaluate qualifications and proposals, including evaluation factors and the relative weight of factors; the form of the contract to be awarded; the estimated maximum allowable construction cost; and the bid instructions to be used by the general contractor/construction manager finalists. Evaluation factors shall include, but not be limited to: Ability of professional personnel, past

performance in negotiated and complex projects, and ability to meet time and budget requirements; the scope of work the general contractor/construction manager proposes to self-perform and its ability to perform it; location; recent, current, and projected work loads of the firm; and the concept of their proposal. A public body shall establish a committee to evaluate the proposals. After the committee has selected the most qualified finalists, these finalists shall submit final proposals, including sealed bids for the percent fee, which is the percentage amount to be earned by the general contractor/construction manager as overhead and profit, on the estimated maximum allowable construction cost and the fixed amount for the detailed specified general conditions work. The public body shall select the firm submitting the highest scored final proposal using the evaluation factors and the relative weight of factors published in the public solicitation of proposals.

(5) The maximum allowable construction cost may be negotiated between the public body and the selected firm after the scope of the project is adequately determined to establish a guaranteed contract cost for which the general contractor/construction manager will provide a performance and payment bond. The guaranteed contract cost includes the fixed amount for the detailed specified general conditions work, the negotiated maximum allowable construction cost, the percent fee on the negotiated maximum allowable construction cost, and sales tax. If the public body is unable to negotiate a satisfactory maximum allowable construction cost with the firm selected that the public body determines to be fair, reasonable, and within the available funds, negotiations with that firm shall be formally terminated and the public body shall negotiate with the next highest scored firm and continue until an agreement is reached or the process is terminated. If the maximum allowable construction cost varies more than fifteen percent from the bid estimated maximum allowable construction cost due to requested and approved changes in the scope by the public body, the percent fee shall be renegotiated.

(6) All subcontract work shall be competitively bid with public bid openings. When critical to the successful completion of a subcontractor bid package and after publication of notice of intent to determine bidder eligibility in a legal newspaper of general circulation published in or as near as possible to that part of the county in which the public work will be done at least twenty days before requesting qualifications from interested subcontract bidders, the owner and general contractor/construction manager may determine subcontractor bidding eligibility using the following evaluation criteria:

- (a) Adequate financial resources or the ability to secure such resources;
 - (b) History of successful completion of a contract of similar type and scope;
 - (c) Project management and project supervision personnel with experience on similar projects and the availability of such personnel for the project;
 - (d) Current and projected workload and the impact the project will have on the subcontractor's current and projected workload;
 - (e) Ability to accurately estimate the subcontract bid package scope of work;
 - (f) Ability to meet subcontract bid package shop drawing and other coordination procedures;
 - (g) Eligibility to receive an award under applicable laws and regulations;
- and

(h) Ability to meet subcontract bid package scheduling requirements.

The owner and general contractor/construction manager shall weigh the evaluation criteria and determine a minimum acceptable score to be considered an eligible subcontract bidder.

After publication of notice of intent to determine bidder eligibility, subcontractors requesting eligibility shall be provided the evaluation criteria and weighting to be used by the owner and general contractor/construction manager to determine eligible subcontract bidders. After the owner and general contractor/construction manager determine eligible subcontract bidders, subcontractors requesting eligibility shall be provided the results and scoring of the subcontract bidder eligibility determination.

Subcontract bid packages shall be awarded to the responsible bidder submitting the low responsive bid. The requirements of RCW 39.30.060 apply to each subcontract bid package. All subcontractors who bid work over three hundred thousand dollars shall post a bid bond and all subcontractors who are awarded a contract over three hundred thousand dollars shall provide a performance and payment bond for their contract amount. All other subcontractors shall provide a performance and payment bond if required by the general contractor/construction manager. If a general contractor/construction manager receives a written protest from a subcontractor bidder, the general contractor/construction manager shall not execute a contract for the subcontract bid package with anyone other than the protesting bidder without first providing at least two full business days' written notice of the general contractor/construction manager's intent to execute a contract for the subcontract bid package; provided that the protesting bidder submits notice in writing of its protest no later than two full business days following bid opening. Intermediate Saturdays, Sundays, and legal holidays are not counted. A low bidder who claims error and fails to enter into a contract is prohibited from bidding on the same project if a second or subsequent call for bids is made for the project. Except as provided for under subsection (7) of this section, bidding on subcontract work by the general contractor/construction manager or its subsidiaries is prohibited. The general contractor/construction manager may negotiate with the low-responsive bidder in accordance with RCW 39.10.080 or, if unsuccessful in such negotiations, rebid.

(7) The general contractor/construction manager, or its subsidiaries, may bid on subcontract work if:

(a) The work within the subcontract bid package is customarily performed by the general contractor/construction manager;

(b) The bid opening is managed by the public body; and

(c) Notification of the general contractor/construction manager's intention to bid is included in the public solicitation of bids for the bid package.

In no event may the value of subcontract work performed by the general contractor/construction manager exceed thirty percent of the negotiated maximum allowable construction cost.

(8) A public body may include an incentive clause in any contract awarded under this section for savings of either time or cost or both from that originally negotiated. No incentives granted may exceed five percent of the maximum allowable construction cost. If the project is completed for less than the agreed upon maximum allowable construction cost, any savings not otherwise

negotiated as part of an incentive clause shall accrue to the public body. If the project is completed for more than the agreed upon maximum allowable construction cost, excepting increases due to any contract change orders approved by the public body, the additional cost shall be the responsibility of the general contractor/construction manager.

NEW SECTION. Sec. 6. A new section is added to chapter 39.10 RCW to read as follows:

(1) In addition to the projects authorized in RCW 39.10.061, public hospital districts may also use the general contractor/construction manager contracting procedure for the construction of public hospital district capital demonstration projects, subject to the following conditions:

(a) The project must receive approval from the public hospital district project review board established under section 7 of this act.

(b) The public hospital district project review board may not authorize more than ten demonstration projects valued between five and ten million dollars.

(2) Public hospital districts may also use the general contractor/construction manager contracting procedure for the construction of any public hospital district capital project that has a value over ten million dollars and that has received approval from the public hospital district project review board established under section 7 of this act.

NEW SECTION. Sec. 7. A new section is added to chapter 39.10 RCW to read as follows:

(1) The public hospital district project review board is established to review public hospital district proposals submitted by public hospital districts to use alternative public works contracting procedures. The board shall select and approve qualified projects based upon an evaluation of the information submitted by the public hospital district under subsection (2) of this section. Any appointments for full terms or to fill a vacancy shall be made by the governor and shall include the following representatives, each having experience with public works or commercial construction: One representative from the department of health; one representative from the office of financial management; two representatives from the construction industry, one of whom works for a construction company with gross annual revenues of twenty million dollars or less; one representative from the specialty contracting industry; one representative from organized labor; one representative from the design industry; one representative from a public body previously authorized under this chapter to use an alternative public works contracting procedure who has experience using such alternative contracting procedures; one representative from public hospital districts with total revenues greater than fifteen million dollars per year; and one representative from public hospital districts with total revenues equal to or less than fifteen million dollars per year. Each member shall be appointed for a term of three years, with the first three-year term commencing after July 27, 2003. Any member of the public hospital district project review board who is directly affiliated with any applicant before the board must recuse him or herself from consideration of the application.

(2) A public hospital district seeking to use alternative contracting procedures authorized under this chapter pursuant to section 6 of this act shall file an application with the public hospital district project review board. The

application form shall require the district to submit a detailed statement of the proposed project, including the public hospital district's name; the current projected total budget for the project, including the estimated construction costs, costs for professional services, equipment and furnishing costs, off-site costs, contract administration costs, and other related project costs; the anticipated project design and construction schedule; a summary of the public hospital district's construction activity for the preceding six years; and an explanation of why the public hospital district believes the use of an alternative contracting procedure is in the public interest and why the public hospital district is qualified to use an alternative contracting procedure, including a summary of the relevant experience of the public hospital district's management team. The applicant shall also provide in a timely manner any other information concerning implementation of projects under this chapter requested by the public hospital district project review board to assist in its consideration.

(3) Any public hospital district whose application is approved by the public hospital district project review board shall comply with the public notification and review requirements in RCW 39.10.030.

(4) Any public hospital district whose application is approved by the public hospital district project review board shall not use as an evaluation factor whether a contractor submitting a bid for the approved project has had prior general contractor/construction manager procedure experience.

Sec. 8. RCW 39.10.902 and 2002 c 46 s 4 are each amended to read as follows:

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective July 1, 2007:

- (1) RCW 39.10.010 and 1994 c 132 s 1;
- (2) RCW 39.10.020 and 2003 c ... s 3 (section 3 of this act), 2001 c 328 s 1, 2000 c 209 s 1, 1997 c 376 s 1, & 1994 c 132 s 2;
- (3) RCW 39.10.030 and 1997 c 376 s 2 & 1994 c 132 s 3;
- (4) RCW 39.10.040 and 1994 c 132 s 4;
- (5) RCW 39.10.051 and 2003 c ... s 4 (section 4 of this act), 2002 c 46 s 1, & 2001 c 328 s 2;
- (6) RCW 39.10.061 and 2003 c ... s 5 (section 5 of this act), 2002 c 46 s 2, & 2001 c 328 s 3;
- (7) RCW 39.10.065 and 1997 c 376 s 5;
- (8) RCW 39.10.067 and 2002 c 46 s 3 & 2000 c 209 s 3;
- (9) RCW 39.10.070 and 1994 c 132 s 7;
- (10) RCW 39.10.080 and 1994 c 132 s 8;
- (11) RCW 39.10.090 and 1994 c 132 s 9;
- (12) RCW 39.10.100 and 1994 c 132 s 10;
- (13) RCW 39.10.115 and 2001 c 328 s 4 & 2000 c 209 s 4;
- (14) RCW 39.10.900 and 1994 c 132 s 13; ((and))
- (15) RCW 39.10.901 and 1994 c 132 s 14;
- (16) RCW 39.10.--- and 2003 c ... s 6 (section 6 of this act); and
- (17) RCW 39.10.--- and 2003 c ... s 7 (section 7 of this act).

Passed by the House April 26, 2003.

Passed by the Senate April 11, 2003.

Approved by the Governor May 14, 2003.

Filed in Office of Secretary of State May 14, 2003.

CHAPTER 301

[Substitute House Bill 1788]

JOB ORDER CONTRACTING

AN ACT Relating to job order contracting for public works; amending RCW 39.10.020, 39.10.067, 39.08.030, 39.30.060, 60.28.011, and 39.10.902; adding a new section to chapter 39.10 RCW; and adding new sections to chapter 39.12 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 39.10 RCW to read as follows:

(1) Public bodies may use a job order contract for public works projects when:

(a) A public body has made a determination that the use of job order contracts will benefit the public by providing an effective means of reducing the total lead-time and cost for public works projects or repair required at public facilities through the use of unit price books and work orders by eliminating time-consuming, costly aspects of the traditional public works process, which require separate contracting actions for each small project;

(b) The work order to be issued for a particular project does not exceed two hundred thousand dollars;

(c) Less than twenty percent of the dollar value of the work order consists of items of work not contained in the unit price book; and

(d) At least eighty percent of the job order contract must be subcontracted to entities other than the job order contractor.

(2) Public bodies shall award job order contracts through a competitive process utilizing public requests for proposals. Public bodies shall make an effort to solicit proposals from a certified minority or certified woman-owned contractor to the extent permitted by the Washington state civil rights act, RCW 49.60.400. The public body shall publish, at least once in a legal newspaper of general circulation published in or as near as possible to that part of the county in which the public works will be done, a request for proposals for job order contracts and the availability and location of the request for proposal documents. The public body shall ensure that the request for proposal documents at a minimum includes:

(a) A detailed description of the scope of the job order contract including performance, technical requirements and specifications, functional and operational elements, minimum and maximum work order amounts, duration of the contract, and options to extend the job order contract;

(b) The reasons for using job order contracts;

(c) A description of the qualifications required of the proposer;

(d) The identity of the specific unit price book to be used;

(e) The minimum contracted amount committed to the selected job order contractor;

(f) A description of the process the public body will use to evaluate qualifications and proposals, including evaluation factors and the relative weight of factors. The public body shall ensure that evaluation factors include, but are not limited to, proposal price and the ability of the proposer to perform the job

order contract. In evaluating the ability of the proposer to perform the job order contract, the public body may consider: The ability of the professional personnel who will work on the job order contract; past performance on similar contracts; ability to meet time and budget requirements; ability to provide a performance and payment bond for the job order contract; recent, current, and projected work loads of the proposer; location; and the concept of the proposal;

(g) The form of the contract to be awarded;

(h) The method for pricing renewals of or extensions to the job order contract;

(i) A notice that the proposals are subject to the provisions of RCW 39.10.100; and

(j) Other information relevant to the project.

(3) A public body shall establish a committee to evaluate the proposals. After the committee has selected the most qualified finalists, the finalists shall submit final proposals, including sealed bids based upon the identified unit price book. Such bids may be in the form of coefficient markups from listed price book costs. The public body shall award the contract to the firm submitting the highest scored final proposal using the evaluation factors and the relative weight of factors published in the public request for proposals.

(4) The public body shall provide a protest period of at least ten business days following the day of the announcement of the apparent successful proposal to allow a protester to file a detailed statement of the grounds of the protest. The public body shall promptly make a determination on the merits of the protest and provide to all proposers a written decision of denial or acceptance of the protest. The public body shall not execute the contract until two business days following the public body's decision on the protest.

(5) The public body shall issue no work orders until it has approved, in consultation with the office of minority and women's business enterprises or the equivalent local agency, a plan prepared by the job order contractor that equitably spreads certified women and minority business enterprise subcontracting opportunities, to the extent permitted by the Washington state civil rights act, RCW 49.60.400, among the various subcontract disciplines.

(6) Job order contracts may be executed for an initial contract term of not to exceed two years, with the option of extending or renewing the job order contract for one year. All extensions or renewals must be priced as provided in the request for proposals. The extension or renewal must be mutually agreed to by the public body and the job order contractor.

(7) The maximum total dollar amount that may be awarded under a job order contract shall not exceed three million dollars in the first year of the job order contract, five million dollars over the first two years of the job order contract, and, if extended or renewed, eight million dollars over the three years of the job order contract.

(8) For each job order contract, public bodies shall not issue more than two work orders equal to or greater than one hundred fifty thousand dollars in a twelve-month contract performance period.

(9) All work orders issued for the same project shall be treated as a single work order for purposes of the one hundred fifty thousand dollar limit on work orders in subsection (8) of this section and the two hundred thousand dollar limit on work orders in subsection (1)(b) of this section.

(10) Any new permanent, enclosed building space constructed under a work order shall not exceed two thousand gross square feet.

(11) Each public body may have no more than two job order contracts in effect at any one time.

(12) For purposes of chapters 39.08, 39.12, 39.76, and 60.28 RCW, each work order issued shall be treated as a separate contract. The alternate filing provisions of RCW 39.12.040(2) shall apply to each work order that otherwise meets the eligibility requirements of RCW 39.12.040(2).

(13) The requirements of RCW 39.30.060 do not apply to requests for proposals for job order contracts.

(14) Job order contractors shall pay prevailing wages for all work that would otherwise be subject to the requirements of chapter 39.12 RCW. Prevailing wages for all work performed pursuant to each work order must be the rates in effect at the time the individual work order is issued.

(15) If, in the initial contract term, the public body, at no fault of the job order contractor, fails to issue the minimum amount of work orders stated in the public request for proposals, the public body shall pay the contractor an amount equal to the difference between the minimum work order amount and the actual total of the work orders issued multiplied by an appropriate percentage for overhead and profit contained in the general conditions for Washington state facility construction. This will be the contractor's sole remedy.

(16) All job order contracts awarded under this section must be executed before July 1, 2007, however the job order contract may be extended or renewed as provided for in this section.

(17) For purposes of this section, "public body" includes any school district.

Sec. 2. RCW 39.10.020 and 2001 c 328 s 1 are each amended to read as follows:

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

(1) "Alternative public works contracting procedure" means the design-build and the general contractor/construction manager contracting procedures authorized in RCW 39.10.051 and 39.10.061, respectively.

(2) "Public body" means the state department of general administration; the University of Washington; Washington State University; every city with a population greater than seventy thousand and any public authority chartered by such city under RCW 35.21.730 through 35.21.755 and specifically authorized as provided in RCW 39.10.120(4); every county with a population greater than four hundred fifty thousand; every port district with total revenues greater than fifteen million dollars per year; every public utility district with revenues from energy sales greater than twenty-three million dollars per year; and those school districts proposing projects that are considered and approved by the school district project review board under RCW 39.10.115.

(3) "Public works project" means any work for a public body within the definition of the term public work in RCW 39.04.010.

(4) "Job order contract" means a contract between a public body or any school district and a registered or licensed contractor in which the contractor agrees to a fixed period, indefinite quantity delivery order contract which provides for the use of negotiated, definitive work orders for public works as defined in RCW 39.04.010.

(5) "Job order contractor" means a registered or licensed contractor awarded a job order contract.

(6) "Unit price book" means a book containing specific prices, based on generally accepted industry standards and information, where available, for various items of work to be performed by the job order contractor. The prices may include: All the costs of materials; labor; equipment; overhead, including bonding costs; and profit for performing the items of work. The unit prices for labor must be at the rates in effect at the time the individual work order is issued.

(7) "Work order" means an order issued for a definite scope of work to be performed pursuant to a job order contract.

Sec. 3. RCW 39.10.067 and 2002 c 46 s 3 are each amended to read as follows:

In addition to the projects authorized in RCW 39.10.061, public bodies may also use the general contractor/construction manager contracting procedure for the construction of school district capital demonstration projects, subject to the following conditions:

(1) The project must receive approval from the school district project review board established under RCW 39.10.115.

(2) The school district project review board may not authorize more than ~~((ten)) sixteen~~ demonstration projects valued over ~~((five)) ten~~ million dollars ~~((; of which at least two demonstration projects must be valued between five and ten million dollars)).~~

(3) The school district project review board may not authorize more than two demonstration projects valued between five and ten million dollars and the authorization for the two demonstration projects shall expire upon the completion of the two projects.

Sec. 4. RCW 39.08.030 and 1989 c 58 s 1 are each amended to read as follows:

(1) The bond mentioned in RCW 39.08.010 shall be in an amount equal to the full contract price agreed to be paid for such work or improvement, except under subsection (2) of this section, and shall be to the state of Washington, except as otherwise provided in RCW 39.08.100, and except in cases of cities and towns, in which cases such municipalities may by general ordinance fix and determine the amount of such bond and to whom such bond shall run: PROVIDED, The same shall not be for a less amount than twenty-five percent of the contract price of any such improvement, and may designate that the same shall be payable to such city, and not to the state of Washington, and all such persons mentioned in RCW 39.08.010 shall have a right of action in his, her, or their own name or names on such bond for work done by such laborers or mechanics, and for materials furnished or provisions and goods supplied and furnished in the prosecution of such work, or the making of such improvements: PROVIDED, That such persons shall not have any right of action on such bond for any sum whatever, unless within thirty days from and after the completion of the contract with an acceptance of the work by the affirmative action of the board, council, commission, trustees, officer, or body acting for the state, county or municipality, or other public body, city, town or district, the laborer, mechanic or subcontractor, or materialman, or person claiming to have supplied materials, provisions or goods for the prosecution of such work, or the making of such

improvement, shall present to and file with such board, council, commission, trustees or body acting for the state, county or municipality, or other public body, city, town or district, a notice in writing in substance as follows:

To (here insert the name of the state, county or municipality or other public body, city, town or district):

Notice is hereby given that the undersigned (here insert the name of the laborer, mechanic or subcontractor, or materialman, or person claiming to have furnished labor, materials or provisions for or upon such contract or work) has a claim in the sum of dollars (here insert the amount) against the bond taken from (here insert the name of the principal and surety or sureties upon such bond) for the work of (here insert a brief mention or description of the work concerning which said bond was taken).

(here to be signed)

Such notice shall be signed by the person or corporation making the claim or giving the notice, and said notice, after being presented and filed, shall be a public record open to inspection by any person, and in any suit or action brought against such surety or sureties by any such person or corporation to recover for any of the items hereinbefore specified, the claimant shall be entitled to recover in addition to all other costs, attorney's fees in such sum as the court shall adjudge reasonable: PROVIDED, HOWEVER, That no attorney's fees shall be allowed in any suit or action brought or instituted before the expiration of thirty days following the date of filing of the notice hereinbefore mentioned: PROVIDED FURTHER, That any city may avail itself of the provisions of RCW 39:08.010 through 39:08.030, notwithstanding any charter provisions in conflict herewith: AND PROVIDED FURTHER, That any city or town may impose any other or further conditions and obligations in such bond as may be deemed necessary for its proper protection in the fulfillment of the terms of the contract secured thereby, and not in conflict herewith.

(2) Under the job order contracting procedure described in section 1 of this act, bonds will be in an amount not less than the dollar value of all open work orders.

Sec. 5. RCW 39.30.060 and 2002 c 163 s 2 are each amended to read as follows:

(1) Every invitation to bid on a prime contract that is expected to cost one million dollars or more for the construction, alteration, or repair of any public building or public work of the state or a state agency or municipality as defined under RCW 39.04.010 or an institution of higher education as defined under RCW 28B.10.016 shall require each prime contract bidder to submit as part of the bid, or within one hour after the published bid submittal time, the names of the subcontractors with whom the bidder, if awarded the contract, will subcontract for performance of the work of: HVAC (heating, ventilation, and air conditioning); plumbing as described in chapter 18.106 RCW; and electrical as described in chapter 19.28 RCW, or to name itself for the work. The prime contract bidder shall not list more than one subcontractor for each category of work identified, unless subcontractors vary with bid alternates, in which case the prime contract bidder must indicate which subcontractor will be used for which alternate. Failure of the prime contract bidder to submit as part of the bid the names of such subcontractors or to name itself to perform such work or the

naming of two or more subcontractors to perform the same work shall render the prime contract bidder's bid nonresponsive and, therefore, void.

(2) Substitution of a listed subcontractor in furtherance of bid shopping or bid peddling before or after the award of the prime contract is prohibited and the originally listed subcontractor is entitled to recover monetary damages from the prime contract bidder who executed a contract with the public entity and the substituted subcontractor but not from the public entity inviting the bid. It is the original subcontractor's burden to prove by a preponderance of the evidence that bid shopping or bid peddling occurred. Substitution of a listed subcontractor may be made by the prime contractor for the following reasons:

(a) Refusal of the listed subcontractor to sign a contract with the prime contractor;

(b) Bankruptcy or insolvency of the listed subcontractor;

(c) Inability of the listed subcontractor to perform the requirements of the proposed contract or the project;

(d) Inability of the listed subcontractor to obtain the necessary license, bonding, insurance, or other statutory requirements to perform the work detailed in the contract; or

(e) The listed subcontractor is barred from participating in the project as a result of a court order or summary judgment.

(3) The requirement of this section to name the prime contract bidder's proposed HVAC, plumbing, and electrical subcontractors applies only to proposed HVAC, plumbing, and electrical subcontractors who will contract directly with the prime contract bidder submitting the bid to the public entity.

(4) This section does not apply to job order contract requests for proposals under section 1 of this act.

NEW SECTION. Sec. 6. A new section is added to chapter 39.12 RCW to read as follows:

Job order contracts under section 1 of this act must pay prevailing wages for all work that would otherwise be subject to the requirements of this chapter. Prevailing wages for all work performed pursuant to each work order must be the rates in effect at the time the individual work order is issued.

Sec. 7. RCW 60.28.011 and 2000 c 185 s 1 are each amended to read as follows:

(1) Public improvement contracts shall provide, and public bodies shall reserve, a contract retainage not to exceed five percent of the moneys earned by the contractor as a trust fund for the protection and payment of: (a) The claims of any person arising under the contract; and (b) the state with respect to taxes imposed pursuant to Title 82 RCW which may be due from such contractor.

(2) Every person performing labor or furnishing supplies toward the completion of a public improvement contract shall have a lien upon moneys reserved by a public body under the provisions of a public improvement contract. However, the notice of the lien of the claimant shall be given within forty-five days of completion of the contract work, and in the manner provided in RCW 39.08.030.

(3) The contractor at any time may request the contract retainage be reduced to one hundred percent of the value of the work remaining on the project.

(a) After completion of all contract work other than landscaping, the contractor may request that the public body release and pay in full the amounts retained during the performance of the contract, and sixty days thereafter the public body must release and pay in full the amounts retained (other than continuing retention of five percent of the moneys earned for landscaping) subject to the provisions of chapters 39.12 and 60.28 RCW.

(b) Sixty days after completion of all contract work the public body must release and pay in full the amounts retained during the performance of the contract subject to the provisions of chapters 39.12 and 60.28 RCW.

(4) The moneys reserved by a public body under the provisions of a public improvement contract, at the option of the contractor, shall be:

(a) Retained in a fund by the public body;

(b) Deposited by the public body in an interest bearing account in a bank, mutual savings bank, or savings and loan association. Interest on moneys reserved by a public body under the provision of a public improvement contract shall be paid to the contractor;

(c) Placed in escrow with a bank or trust company by the public body. When the moneys reserved are placed in escrow, the public body shall issue a check representing the sum of the moneys reserved payable to the bank or trust company and the contractor jointly. This check shall be converted into bonds and securities chosen by the contractor and approved by the public body and the bonds and securities shall be held in escrow. Interest on the bonds and securities shall be paid to the contractor as the interest accrues.

(5) The contractor or subcontractor may withhold payment of not more than five percent from the moneys earned by any subcontractor or sub-subcontractor or supplier contracted with by the contractor to provide labor, materials, or equipment to the public project. Whenever the contractor or subcontractor reserves funds earned by a subcontractor or sub-subcontractor or supplier, the contractor or subcontractor shall pay interest to the subcontractor or sub-subcontractor or supplier at a rate equal to that received by the contractor or subcontractor from reserved funds.

(6) A contractor may submit a bond for all or any portion of the contract retainage in a form acceptable to the public body and from a bonding company meeting standards established by the public body. The public body shall accept a bond meeting these requirements unless the public body can demonstrate good cause for refusing to accept it. This bond and any proceeds therefrom are subject to all claims and liens and in the same manner and priority as set forth for retained percentages in this chapter. The public body shall release the bonded portion of the retained funds to the contractor within thirty days of accepting the bond from the contractor. Whenever a public body accepts a bond in lieu of retained funds from a contractor, the contractor shall accept like bonds from any subcontractors or suppliers from which the contractor has retained funds. The contractor shall then release the funds retained from the subcontractor or supplier to the subcontractor or supplier within thirty days of accepting the bond from the subcontractor or supplier.

(7) If the public body administering a contract, after a substantial portion of the work has been completed, finds that an unreasonable delay will occur in the completion of the remaining portion of the contract for any reason not the result of a breach thereof, it may, if the contractor agrees, delete from the contract the

remaining work and accept as final the improvement at the stage of completion then attained and make payment in proportion to the amount of the work accomplished and in this case any amounts retained and accumulated under this section shall be held for a period of sixty days following the completion. In the event that the work is terminated before final completion as provided in this section, the public body may thereafter enter into a new contract with the same contractor to perform the remaining work or improvement for an amount equal to or less than the cost of the remaining work as was provided for in the original contract without advertisement or bid. The provisions of this chapter are exclusive and shall supersede all provisions and regulations in conflict herewith.

(8) Whenever the department of transportation has contracted for the construction of two or more ferry vessels, sixty days after completion of all contract work on each ferry vessel, the department must release and pay in full the amounts retained in connection with the construction of the vessel subject to the provisions of RCW 60.28.020 and chapter 39.12 RCW. However, the department of transportation may at its discretion condition the release of funds retained in connection with the completed ferry upon the contractor delivering a good and sufficient bond with two or more sureties, or with a surety company, in the amount of the retained funds to be released to the contractor, conditioned that no taxes shall be certified or claims filed for work on the ferry after a period of sixty days following completion of the ferry; and if taxes are certified or claims filed, recovery may be had on the bond by the department of revenue and the materialmen and laborers filing claims.

(9) Except as provided in subsection (1) of this section, reservation by a public body for any purpose from the moneys earned by a contractor by fulfilling its responsibilities under public improvement contracts is prohibited.

(10) Contracts on projects funded in whole or in part by farmers home administration and subject to farmers home administration regulations are not subject to subsections (1) through (9) of this section.

(11) This subsection applies only to a public body that has contracted for the construction of a facility using the general contractor/construction manager procedure, as defined under RCW (~~39.10.060~~) 39.10.061. If the work performed by a subcontractor on the project has been completed within the first half of the time provided in the general contractor/construction manager contract for completing the work, the public body may accept the completion of the subcontract. The public body must give public notice of this acceptance. After a forty-five day period for giving notice of liens, and compliance with the retainage release procedures in RCW 60.28.021, the public body may release that portion of the retained funds associated with the subcontract. Claims against the retained funds after the forty-five day period are not valid.

(12) Unless the context clearly requires otherwise, the definitions in this subsection apply throughout this section.

(a) "Contract retainage" means an amount reserved by a public body from the moneys earned by a person under a public improvement contract.

(b) "Person" means a person or persons, mechanic, subcontractor, or materialperson who performs labor or provides materials for a public improvement contract, and any other person who supplies the person with provisions or supplies for the carrying on of a public improvement contract.

(c) "Public body" means the state, or a county, city, town, district, board, or other public body.

(d) "Public improvement contract" means a contract for public improvements or work, other than for professional services, or a work order as defined in RCW 39.10.020.

Sec. 8. RCW 39.10.902 and 2002 c 46 s 4 are each amended to read as follows:

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective July 1, 2007:

- (1) RCW 39.10.010 and 1994 c 132 s 1;
- (2) RCW 39.10.020 and 2003 c ... s 2 (section 2 of this act), 2001 c 328 s 1, 2000 c 209 s 1, 1997 c 376 s 1, & 1994 c 132 s 2;
- (3) RCW 39.10.030 and 1997 c 376 s 2 & 1994 c 132 s 3;
- (4) RCW 39.10.040 and 1994 c 132 s 4;
- (5) RCW 39.10.051 and 2002 c 46 s 1 & 2001 c 328 s 2;
- (6) RCW 39.10.061 and 2002 c 46 s 2 & 2001 c 328 s 3;
- (7) RCW 39.10.065 and 1997 c 376 s 5;
- (8) RCW 39.10.067 and 2003 c ... s 3 (section 3 of this act), 2002 c 46 s 3, & 2000 c 209 s 3;
- (9) RCW 39.10.070 and 1994 c 132 s 7;
- (10) RCW 39.10.080 and 1994 c 132 s 8;
- (11) RCW 39.10.090 and 1994 c 132 s 9;
- (12) RCW 39.10.100 and 1994 c 132 s 10;
- (13) RCW 39.10.115 and 2001 c 328 s 4 & 2000 c 209 s 4;
- (14) RCW 39.10.900 and 1994 c 132 s 13; ((and))
- (15) RCW 39.10.901 and 1994 c 132 s 14; and
- (16) RCW 39.10.-- and 2003 c ... s 1 (section 1 of this act).

NEW SECTION. Sec. 9. A new section is added to chapter 39.12 RCW to read as follows:

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective July 1, 2007:

RCW 39.12.-- and 2003 c . . . s 6 (section 6 of this act).

Passed by the House April 26, 2003.

Passed by the Senate April 26, 2003.

Approved by the Governor May 14, 2003.

Filed in Office of Secretary of State May 14, 2003.

CHAPTER 302

[Substitute House Bill 1278]

LISTING OF PROPERTY

AN ACT Relating to listing property for tax purposes; and amending RCW 84.40.040, 84.40.060, 84.40.070, 84.40.190, 84.40.335, 84.36.310, and 84.36.630.

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

Sec. 1. RCW 84.40.040 and 2001 c 187 s 18 are each amended to read as follows:

The assessor shall begin the preliminary work for each assessment not later than the first day of December of each year in all counties in the state. The

assessor shall also complete the duties of listing and placing valuations on all property by May 31st of each year, except that the listing and valuation of construction and mobile homes under RCW 36.21.080 and 36.21.090 shall be completed by August 31st of each year, and in the following manner, to wit:

The assessor shall actually determine as nearly as practicable the true and fair value of each tract or lot of land listed for taxation and of each improvement located thereon and shall enter one hundred percent of the true and fair value of such land and value of such improvements, together with the total of such one hundred percent valuations, opposite each description of property on the assessment list and tax roll.

The assessor shall make an alphabetical list of the names of all persons in the county liable to assessment of personal property, and require each person to make a correct list and statement of such property according to the standard form prescribed by the department of revenue, which statement and list shall include, if required by the form, the year of acquisition and total original cost of personal property in each category of the prescribed form(~~(, and shall be signed and verified under penalty of perjury by the person listing the property: PROVIDED, That)~~). However, the assessor may list and value improvements on publicly owned land in the same manner as real property is listed and valued, including conformance with the revaluation program required under chapter 84.41 RCW. Such list and statement shall be filed on or before the last day of April. The assessor shall on or before the 1st day of January of each year mail, or electronically transmit, a notice to all such persons at their last known address that such statement and list is required(~~(, such)~~). This notice (~~(to)~~) must be accompanied by the form on which the statement or list is to be made(~~(: PROVIDED, That)~~). The notice mailed, or electronically transmitted, by the assessor to each taxpayer each year shall, if practicable, include the statement and list of personal property of the taxpayer for the preceding year. Upon receipt of such statement and list the assessor shall thereupon determine the true and fair value of the property included in such statement and enter one hundred percent of the same on the assessment roll opposite the name of the party assessed; and in making such entry in the assessment list, the assessor shall give the name and post office address of the party listing the property, and if the party resides in a city the assessor shall give the street and number or other brief description of the party's residence or place of business. The assessor may, after giving written notice of the action to the person to be assessed, add to the assessment list any taxable property which should be included in such list.

Sec. 2. RCW 84.40.060 and 1988 c 222 s 16 are each amended to read as follows:

Upon receipt of the (~~(verified)~~) statement of personal property, the assessor shall assess the value of such property(~~(: PROVIDED;)~~). If any property is listed or assessed on or after the 31st day of May, the same shall be legal and binding as if listed and assessed before that time(~~(: PROVIDED, FURTHER, That any statement of taxable property which is not signed by the person listing the property and which is not verified under penalty of perjury shall not be accepted by the assessor nor shall it be considered in any way to constitute compliance, or an attempt at compliance, with the listing requirements of this chapter)~~).

Sec. 3. RCW 84.40.070 and 1961 c 15 s 84.40.070 are each amended to read as follows:

The president, secretary or principal accounting officer or agent of any company or association, whether incorporated or unincorporated, except as otherwise provided for in this title, shall make out and deliver to the assessor a ~~((sworn))~~ statement of its property, setting forth particularly ~~((—First;))~~ (1) the name and location of the company or association; ~~((second;))~~ (2) the real property of the company or association, and where situated; ~~((third;))~~ and (3) the nature and value of its personal property. The real and personal property of such company or association shall be assessed the same as other real and personal property. In all cases of failure or refusal of any person, officer, company, or association to make such return or statement, it shall be the duty of the assessor to make such return or statement from the best information he can obtain.

Sec. 4. RCW 84.40.190 and 2001 c 185 s 13 are each amended to read as follows:

Every person required by this title to list property shall make out and deliver to the assessor, or to the department as required by RCW 84.40.065, either in person, by mail, or by electronic transmittal if available, a statement ~~((, verified under penalty of perjury;))~~ of all the personal property in his or her possession or under his or her control, and which, by the provisions of this title, he or she is required to list for taxation, either as owner or holder thereof. ~~((Each list, schedule or statement required by this chapter shall be signed by the individual if the person required to make the same is an individual; by the president, vice-president, treasurer, assistant treasurer, chief accounting officer or any other officer duly authorized to so act if the person required to make the same is a corporation; by a responsible and duly authorized member or officer having knowledge of its affairs, if the person required to make the same is a partnership or other unincorporated organization; or by the fiduciary, if the person required to make the same is a trust or estate. The list, schedule, or statement may be made and signed for the person required to make the same by an agent who is duly authorized to do so by a power of attorney filed with and approved by the assessor.))~~ When any list, schedule, or statement is made ~~((and signed by such agent))~~, the principal required to make out and deliver the same shall be responsible for the contents and the filing thereof and shall be liable for the penalties imposed pursuant to RCW 84.40.130. No person shall be required to list for taxation in his statement to the assessor any share or portion of the capital stock, or of any of the property of any company, association or corporation, which such person may hold in whole or in part, where such company, being required so to do, has listed for assessment and taxation its capital stock and property with the department of revenue, or as otherwise required by law.

Sec. 5. RCW 84.40.335 and 1967 ex.s. c 149 s 42 are each amended to read as follows:

Except for personal property under RCW 84.40.190, any list, schedule or statement required by this chapter shall contain a written declaration that any person signing the same and knowing the same to be false shall be subject to the penalties of perjury.

Sec. 6. RCW 84.36.310 and 1969 ex.s. c 124 s 2 are each amended to read as follows:

Any person claiming the exemption provided for in RCW 84.36.300 shall file such claim with his or her listing of personal property as provided by RCW 84.40.040. The claim shall be in the form prescribed by the department of revenue, and shall require such information as the department deems necessary to substantiate the claim. ~~((The claim shall be signed and verified by the same person and in the same manner as the listing of personal property filed pursuant to RCW 84.40.040.))~~

Sec. 7. RCW 84.36.630 and 2001 2nd sp.s. c 24 s 1 are each amended to read as follows:

(1) All machinery and equipment owned by a farmer that is personal property is exempt from property taxes levied for any state purpose if it is used exclusively in growing and producing agricultural products during the calendar year for which the claim for exemption is made.

(2) "Farmer" has the same meaning as defined in RCW 82.04.213.

(3) A claim for exemption under this section shall be filed with the county assessor together with the ~~((verified))~~ statement required under RCW 84.40.190, for exemption from taxes payable the following year. The claim shall be made solely upon forms as prescribed and furnished by the department of revenue.

Passed by the House March 14, 2003.

Passed by the Senate April 16, 2003.

Approved by the Governor May 14, 2003.

Filed in Office of Secretary of State May 14, 2003.

CHAPTER 303

[Substitute House Bill 1494]

INTERGOVERNMENTAL DISPOSITION OF PROPERTY

AN ACT Relating to the disposition of property to a foreign entity; amending RCW 39.33.010; and declaring an emergency.

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

Sec. 1. RCW 39.33.010 and 1981 c 96 s 1 are each amended to read as follows:

(1) The state or any municipality or any political subdivision thereof, may sell, transfer, exchange, lease or otherwise dispose of any property, real or personal, or property rights, including but not limited to the title to real property, to the state or any municipality or any political subdivision thereof, or the federal government, on such terms and conditions as may be mutually agreed upon by the proper authorities of the state and/or the subdivisions concerned. In addition, the state, or any municipality or any political subdivision thereof, may sell, transfer, exchange, lease, or otherwise dispose of personal property, except weapons, to a foreign entity.

(2) This section shall be deemed to provide an alternative method for the doing of the things authorized herein, and shall not be construed as imposing any additional condition upon the exercise of any other powers vested in the state, municipalities or political subdivisions.

(3) No intergovernmental transfer, lease, or other disposition of property made pursuant to any other provision of law prior to May 23, 1972, shall be

construed to be invalid solely because the parties thereto did not comply with the procedures of this section.

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 takes effect immediately.

Passed by the House February 28, 2003.

Passed by the Senate April 17, 2003.

Approved by the Governor May 14, 2003.

Filed in Office of Secretary of State May 14, 2003.

CHAPTER 304

[Substitute House Bill 1291]

FLOOD CONTROL ZONE DISTRICTS

AN ACT Relating to flood control zone districts; and amending RCW 86.15.050.

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

Sec. 1. RCW 86.15.050 and 1961 c 153 s 5 are each amended to read as follows:

(1) The board of county commissioners of each county shall be ex officio, by virtue of their office, supervisors of the zones created in each county. In any zone with more than two thousand residents, an election of supervisors other than the board of county commissioners may be held as provided in this section.

(2) When proposed by citizen petition or by resolution of the board of county commissioners, a ballot proposition authorizing election of the supervisors of a zone shall be submitted by ordinance to the voters residing in the zone at any general election, or at any special election which may be called for that purpose.

(3) The ballot proposition shall be submitted (a) if the board of county supervisors enacts an ordinance submitting the proposition after adopting a resolution proposing the election of supervisors of a zone; or (b) if a petition proposing the election of supervisors of a zone is submitted to the county auditor of the county in which the zone is located that is signed by registered voters within the zone, numbering at least fifteen percent of the votes cast in the last county general election by registered voters within the zone.

(4) Upon receipt of a citizen petition under subsection (3)(b) of this section, the county auditor shall determine whether the petition is signed by a sufficient number of registered voters, using the registration records and returns of the preceding general election, and, no later than forty-five days after receipt of the petition, shall attach to the petition the auditor's certificate stating whether or not sufficient signatures have been obtained. If the signatures are found by the auditor to be insufficient, the petition shall be returned to the person filing it.

(5) The ballot proposition authorizing election of supervisors of zones shall appear on the ballot of the next general election or at the next special election date specified under RCW 29.13.020 occurring sixty or more days after the last resolution proposing election of supervisors or the date the county auditor certifies that the petition proposing such election contains sufficient valid signatures.

(6) The petition proposing the election of zone supervisors, or the ordinance submitting the question to the voters, shall describe the proposed election process. The ballot proposition shall include the following:

- "For the direct election of flood control zone district supervisors."
- "Against the direct election of flood control zone district supervisors."

(7) The ordinance or petition submitting the ballot proposition shall designate the proposed composition of the supervisors of zones, which shall be clearly described in the ballot proposition. The ballot proposition shall state that the zone supervisors shall thereafter be selected by election, and, at the same election at which the proposition is submitted to the voters as to whether to elect zone supervisors, three zone supervisors shall be elected. The election of zone supervisors is null and void if the voters, by a simple majority, do not approve the direct election of the zone supervisors. Candidates shall run for specific supervisor positions. No primary may be held to nominate candidates. The person receiving the greatest number of votes for each position shall be elected as a supervisor. The staggering of the terms of office shall occur as follows: (a) The person who is elected receiving the greatest number of votes shall be elected to a six-year term of office if the election is held in an odd-numbered year or a five-year term of office if the election is held in an even-numbered year; (b) the person who is elected receiving the second greatest number of votes shall be elected to a four-year term of office if the election is held in an odd-numbered year or a three-year term of office if the election is held in an even-numbered year; and (c) the other person who is elected shall be elected to a two-year term of office if the election is held in an odd-numbered year or a one-year term of office if the election is held in an even-numbered year. The initial supervisors shall take office immediately when they are elected and qualified, and for purposes of computing their terms of office the terms shall be assumed to commence on the first day of January in the year after they are elected. Thereafter, all supervisors shall be elected to six-year terms of office. All supervisors shall serve until their respective successors are elected and qualified and assume office in accordance with RCW 29.04.170. Vacancies may occur and shall be filled as provided in chapter 42.12 RCW.

(8) The costs and expenses directly related to the election of zone supervisors shall be borne by the zone.

Passed by the House March 5, 2003.

Passed by the Senate April 16, 2003.

Approved by the Governor May 14, 2003.

Filed in Office of Secretary of State May 14, 2003.

CHAPTER 305

[Substitute House Bill 1153]

ARCHIVES—CONFIDENTIAL RECORDS

AN ACT Relating to the confidential nature of public records transferred to the state archives; and amending RCW 40.14.030.

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

Sec. I. RCW 40.14.030 and 1957 c 246 s 3 are each amended to read as follows:

(1) All public records, not required in the current operation of the office where they are made or kept, and all records of every agency, commission, committee, or any other activity of state government which may be abolished or discontinued, shall be transferred to the state archives so that the valuable historical records of the state may be centralized, made more widely available, and insured permanent preservation: PROVIDED, That this section shall have no application to public records approved for destruction under the subsequent provisions of this chapter.

When so transferred, copies of the public records concerned shall be made and certified by the archivist, which certification shall have the same force and effect as though made by the officer originally in charge of them. Fees may be charged to cover the cost of reproduction. In turning over the archives of his office, the officer in charge thereof, or his successor, thereby loses none of his rights of access to them, without charge, whenever necessary.

(2) Records that are confidential, privileged, or exempt from public disclosure under state or federal law while in the possession of the originating agency, commission, board, committee, or other entity of state or local government retain their confidential, privileged, or exempt status after transfer to the state archives unless the archivist, with the concurrence of the originating jurisdiction, determines that the records must be made accessible to the public according to proper and reasonable rules adopted by the secretary of state, in which case the records may be open to inspection and available for copying after the expiration of seventy-five years from creation of the record. If the originating jurisdiction is no longer in existence, the archivist shall make the determination of availability according to such rules. If, while in the possession of the originating agency, commission, board, committee, or other entity, any record is determined to be confidential, privileged, or exempt from public disclosure under state or federal law for a period of less than seventy-five years, then the record, with the concurrence of the originating jurisdiction, must be made accessible to the public upon the expiration of the shorter period of time according to proper and reasonable rules adopted by the secretary of state.

Passed by the House February 28, 2003.

Passed by the Senate April 16, 2003.

Approved by the Governor May 14, 2003.

Filed in Office of Secretary of State May 14, 2003.

CHAPTER 306

[Substitute House Bill 1113]

IRRIGATION DISTRICTS BOARDS OF JOINT CONTROL

AN ACT Relating to irrigation district boards of joint control; amending RCW 87.80.005, 87.80.030, and 87.80.130; and adding a new section to chapter 87.80 RCW.

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

Sec. I. RCW 87.80.005 and 1996 c 320 s 2 are each amended to read as follows:

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

(1) "Area of jurisdiction" means all lands within the exterior boundary of the composite area served by the irrigation entities that comprise the board of joint control as the boundary is represented on the map filed under RCW 87.80.030.

(2) "Irrigation entity" means an irrigation district or an operating entity for a division within a federal reclamation project. For the purposes of this chapter, a water company, a water users' association, a municipality, a water right owner and user of irrigation water, or any other entity that provides irrigation water as a primary purpose, is an irrigation entity when creating or joining a board of joint control with an irrigation district or operating entity for a division within a federal reclamation project.

(3) "Joint use facilities" means those works, including reservoirs, canals, ditches, natural streams in which the irrigation entity has rights of conveyance under RCW 90.03.030, hydroelectric facilities, pumping stations, drainage works, reserved works as may be transferred by contracts with the United States, and system interties that are determined by the board of joint control to provide common benefit to its members.

(4) "Ownership interest" means the irrigation entity holds water rights in its name for the benefit of itself, its water users or, in federal reclamation projects, the irrigation entity has a contractual responsibility for delivery of water to its individual water users.

(5) "Source of water" means a hydrological distinct river and tributary system or aquifer system from which board of joint control member entities appropriate water.

Sec. 2. RCW 87.80.030 and 1996 c 320 s 4 are each amended to read as follows:

The petition for the creation of a board of joint control shall be addressed to the board of county commissioners, shall describe generally the relationship, if any, of the irrigation entities to an established federal reclamation project, the primary water works of the entities including reservoirs, main canals, hydroelectric facilities, pumping stations, and drainage facilities, giving them their local names, if any they have, and shall show generally the physical relationship of the lands being watered from the water facilities. However, lands included in any irrigation entity involved need not be described individually but shall be included by stating the name of the irrigation entity and all the irrigable lands in the irrigation entity named shall by that method be deemed to be involved unless otherwise specifically stated in the petition. Further, the petition must propose the formula for board of joint control apportionment of costs among its members, and may propose the composition of the board of joint control as to membership, chair, and voting structure. When a board of joint control includes irrigation entities other than an irrigation district or an operating entity for a division within a federal reclamation project as provided in RCW 87.80.005, the voting structure must be such that the votes apportioned to those entities are less than fifty percent of the total votes.

The petition shall also state generally the reasons for the creation of a board of joint control and any other matter the petitioners deem material, and shall allege that it is in the public interest and to the benefit of all the owners of the

lands receiving water within the area of jurisdiction, that the board of joint control be created and request that the board of county commissioners consider the petition and take the necessary steps provided by law for the creation of a board of joint control. The petition shall be accompanied by a map showing the area of jurisdiction and the general location of the water supply and distribution facilities.

Sec. 3. RCW 87.80.130 and 1998 c 84 s 2 are each amended to read as follows:

(1) A board of joint control created under the provisions of this chapter shall have full authority within its area of jurisdiction to enter into and perform any and all necessary contracts; to accept grants and loans, including, but not limited to, those provided under chapters 43.83B and 43.99E RCW, to appoint and employ and discharge the necessary officers, agents, and employees; to sue and be sued as a board but without personal liability of the members thereof in any and all matters in which all the irrigation entities represented on the board as a whole have a common interest without making the irrigation entities parties to the suit; to represent the entities in all matters of common interest as a whole within the scope of this chapter; and to do any and all lawful acts required and expedient to carry out the purposes of this chapter. A board of joint control may, subject to the same limitations as an irrigation district operating under chapter 87.03 RCW, acquire any property or property rights for use within the board's area of jurisdiction by power of eminent domain; acquire, purchase, or lease in its own name all necessary real or personal property or property rights; and sell, lease, or exchange any surplus real or personal property or property rights. Any transfers of water, however, are limited to transfers authorized under subsection (2) of this section.

(2)(a) A board of joint control is authorized and encouraged to pursue conservation and system efficiency improvements to optimize the use of appropriated waters and to either redistribute the saved water within its area of jurisdiction, or(;-) transfer the water to others, or both. A redistribution of saved water as an operational practice internal to the board of joint control's area of jurisdiction, may be authorized if it can be made without detriment or injury to rights existing outside of the board of control's area of jurisdiction, including instream flow water rights established under state or federal law.

(b) Prior to undertaking a water conservation or system efficiency improvement project (~~(which)~~ that will result in a redistribution of saved water, the board of joint control must consult with the department of ecology and, if the board's jurisdiction is within a United States reclamation project, the board must obtain the approval of the bureau of reclamation. The purpose of such consultation is to assure that the proposal will not impair the rights of other water holders or bureau of reclamation contract water users.

(c) A board of joint control does not have the power to authorize a change of any water right that would change the point or points of diversion, purpose of use, or place of use outside the board's area of jurisdiction, without the approval of the department of ecology pursuant to RCW 90.03.380 and, if the board's jurisdiction is within a United States reclamation project, the approval of the bureau of reclamation. Any change in place of use that results from a transfer of water between the individual entities of the board of joint control shall not result in any reduction in the total water supply available in a federal reclamation

project. In making the determination of whether a change of place of use in an area covered by a federal reclamation project will result in a reduction in the total water supply available, the board of joint control shall consult with the bureau of reclamation.

(d) The board of joint control shall notify the department of ecology, and any Indian tribe requesting notice, of transfers of water between the individual entities of the board of joint control. This subsection (2)(d) applies only to a board of joint control created after January 1, 2003.

(3) A board of joint control is authorized to design, construct, and operate either drainage projects, or water quality enhancement projects, or both.

(4) Where the board of joint control area of jurisdiction is totally within a federal reclamation project, the board is authorized to accept operational responsibility for federal reserved works.

(5) Nothing contained in this chapter gives a board of joint control the authority to abridge the existing rights, responsibilities, and authorities of an individual irrigation entity or others within the area of jurisdiction; nor in a case where the board of joint control consists of representatives of two or more divisions of a federal reclamation project shall the board of joint control abridge any powers of an existing board of control created through federal contract; nor shall a board of joint control have any authority to abridge or modify a water right benefiting lands within its area of jurisdiction without consent of the party holding the ownership interest in the water right.

(6) A board of joint control created under this chapter may not use any authority granted to it by this chapter or by RCW 90.03.380 to authorize a transfer of or change in a water right or to authorize a redistribution of saved water before July 1, 1997.

NEW SECTION. Sec. 4. A new section is added to chapter 87.80 RCW to read as follows:

The provisions of chapter . . . , Laws of 2003 (this act) shall not be construed or interpreted to authorize the impairment of any existing water rights.

Passed by the House April 22, 2003.

Passed by the Senate April 14, 2003.

Approved by the Governor May 14, 2003.

Filed in Office of Secretary of State May 14, 2003.

CHAPTER 307

[Engrossed House Bill 2067]

WATER—RESIDENTIAL DEVELOPMENTS

AN ACT Relating to withdrawals of public ground waters for domestic use of clustered residential developments; amending RCW 90.44.050; and adding a new section to chapter 90.44 RCW.

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

Sec. 1. RCW 90.44.050 and 1987 c 109 s 108 are each amended to read as follows:

After June 6, 1945, no withdrawal of public ground waters of the state shall be begun, nor shall any well or other works for such withdrawal be constructed, unless an application to appropriate such waters has been made to the

department and a permit has been granted by it as herein provided: EXCEPT, HOWEVER, That any withdrawal of public ground waters for stock-watering purposes, or for the watering of a lawn or of a noncommercial garden not exceeding one-half acre in area, or for single or group domestic uses in an amount not exceeding five thousand gallons a day, or as provided in section 2 of this act, or for an industrial purpose in an amount not exceeding five thousand gallons a day, is and shall be exempt from the provisions of this section, but, to the extent that it is regularly used beneficially, shall be entitled to a right equal to that established by a permit issued under the provisions of this chapter: PROVIDED, HOWEVER, That the department from time to time may require the person or agency making any such small withdrawal to furnish information as to the means for and the quantity of that withdrawal: PROVIDED, FURTHER, That at the option of the party making withdrawals of ground waters of the state not exceeding five thousand gallons per day, applications under this section or declarations under RCW 90.44.090 may be filed and permits and certificates obtained in the same manner and under the same requirements as is in this chapter provided in the case of withdrawals in excess of five thousand gallons a day.

NEW SECTION. Sec. 2. A new section is added to chapter 90.44 RCW to read as follows:

(1) On a pilot project basis, the use of water for domestic use in clustered residential developments is exempt as described in subsection (2) of this section from the permit requirements of RCW 90.44.050 in Whitman county. The department must review the use of water under this section and its impact on water resources in the county and report to the legislature by December 31st of each even-numbered year through 2016 regarding its review.

(2) For the pilot project, the domestic use of water for a clustered residential development is exempt from the permit requirements of RCW 90.44.050 for an amount of water that is not more than one thousand two hundred gallons a day per residence for a residential development that has an overall density equal to or less than one residence per ten acres and a minimum of six homes.

(3) No new right to use water may be established for a clustered development under this section where the first residential use of water for the development begins after December 31, 2015.

Passed by the House April 22, 2003.

Passed by the Senate April 10, 2003.

Approved by the Governor May 14, 2003.

Filed in Office of Secretary of State May 14, 2003.

CHAPTER 308

[House Bill 1126]

SEED TESTING—FEES

AN ACT Relating to seed testing and certification fees; adding a new section to chapter 15.49 RCW; providing an effective date; and declaring an emergency.

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

NEW SECTION. Sec. 1. A new section is added to chapter 15.49 RCW to read as follows:

(1) Fees established under this chapter pertaining to laboratory testing and seed certification may be increased by the department by rule during the fiscal year ending June 30, 2004, in excess of the fiscal growth factor as determined under chapter 43.135 RCW.

(2) Subsection (1) of this section is null and void if any of the moneys from any source that have been deposited in the agricultural local fund are transferred to the general fund or authorized to be transferred to the general fund by legislation enacted after January 1, 2003, and before July 1, 2003.

NEW SECTION. Sec. 2. Section 1 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2003.

Passed by the House March 12, 2003.

Passed by the Senate April 25, 2003.

Approved by the Governor May 14, 2003.

Filed in Office of Secretary of State May 14, 2003.

CHAPTER 309

[Substitute House Bill 1837]

FIRE PROTECTION DISTRICTS—HEALTH CLINIC SERVICES

AN ACT Relating to providing flexibility for fire protection districts; and amending RCW 52.02.020.

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

Sec. 1. RCW 52.02.020 and 1991 c 360 s 10 are each amended to read as follows:

(1) Fire protection districts for the provision of fire prevention services, fire suppression services, emergency medical services, and for the protection of life and property in areas outside of cities and towns, except where the cities and towns have been annexed into a fire protection district or where the district is continuing service pursuant to RCW 35.02.202, are authorized to be established as provided in this title.

(2) In addition to other services authorized under this section, fire protection districts that share a common border with Canada and are surrounded on three sides by water, may also establish or participate in the provision of health clinic services.

Passed by the House March 11, 2003.

Passed by the Senate April 16, 2003.

Approved by the Governor May 14, 2003.

Filed in Office of Secretary of State May 14, 2003.

CHAPTER 310

[Substitute House Bill 1250]

MARINAS—STATE-OWNED AQUATIC LANDS—LEASES

AN ACT Relating to lease rates for marinas on state-owned aquatic lands that provide public moorage; amending RCW 79.90.480; and declaring an emergency.

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

Sec. 1. RCW 79.90.480 and 1998 c 185 s 2 are each amended to read as follows:

Except as otherwise provided by this chapter, annual rent rates for the lease of state-owned aquatic lands for water-dependent uses shall be determined as follows:

(1)(a) The assessed land value, exclusive of improvements, as determined by the county assessor, of the upland tax parcel used in conjunction with the leased area or, if there are no such uplands, of the nearest upland tax parcel used for water-dependent purposes divided by the parcel area equals the upland value.

(b) The upland value times the area of leased aquatic lands times thirty percent equals the aquatic land value.

(2) As of July 1, 1989, and each July 1 thereafter, the department shall determine the real capitalization rate to be applied to water-dependent aquatic land leases commencing or being adjusted under subsection (3)(a) of this section in that fiscal year. The real capitalization rate shall be the real rate of return, except that until June 30, 1989, the real capitalization rate shall be five percent and thereafter it shall not change by more than one percentage point in any one year or be more than seven percent or less than three percent.

(3) The annual rent shall be:

(a) Determined initially, and redetermined every four years or as otherwise provided in the lease, by multiplying the aquatic land value times the real capitalization rate; and

(b) Adjusted by the inflation rate each year in which the rent is not determined under subsection (3)(a) of this section.

(4) If the upland parcel used in conjunction with the leased area is not assessed or has an assessed value inconsistent with the purposes of the lease, the nearest comparable upland parcel used for similar purposes shall be substituted and the lease payment determined in the same manner as provided in this section.

(5) For the purposes of this section, "upland tax parcel" is a tax parcel, some portion of which has upland characteristics. Filled tidelands or shorelands with upland characteristics which abut state-owned aquatic land shall be considered as uplands in determining aquatic land values.

(6) The annual rent for filled state-owned aquatic lands that have the characteristics of uplands shall be determined in accordance with RCW 79.90.500 in those cases in which the state owns the fill and has a right to charge for the fill.

(7)(a) For leases for marina uses only, ((beginning on June 11, 1998)) as of July 1, 2004, ((the annual rental rates in effect on December 31, 1997, shall remain in effect until July 1, 1999, at which time the annual water-dependent rent shall be determined by the method in effect at that time. In order to be eligible for the rate to remain at this level, a marina lease must be in good standing, meaning that the lessee must be current with payment of rent, the lease not expired or in approved holdover status, and the lessee not in breach of other terms of the agreement)) lease rates will be a percentage of the annual gross revenues generated by that marina. It is the intent of the legislature that additional legislation be enacted prior to July 1, 2004, to establish the percentage of gross revenues that will serve as the basis for a marina's rent and a definition of gross revenues. Annual rent must be recalculated each year based upon the

marina's gross revenues from the previous year, as reported to the department consistent with this subsection (7).

(b) By December 31, 2003, the department will develop a recommended formula for calculating marina rents consistent with this subsection (7) and report the recommendation to the legislature. The formula recommended by the department must include a percentage or a range of percentages of gross revenues, a system for implementing such percentages, and the designation of revenue sources to be considered for rent calculation purposes. The department must also ensure, given the available information, that the rent formula recommended by the department is initially calculated to maintain state proceeds from marina rents as of July 1, 2003, and that if the department does not receive income reporting forms representing at least ninety percent of the projected annual marina revenue and at least seventy-five percent of all marinas, the current model for calculating marina rents, as described in subsections (1) through (6) of this section, will continue to be the method used to calculate marina rents, and the income method, as described in (a) of this subsection, will not be applied. In addition to the percent of marina income, the department shall determine its direct administrative costs (cost of hours worked directly on applications and leases, based on salaries and benefits, plus travel reimbursement and other actual out-of-pocket costs) to calculate, audit, execute, and monitor marina leases, and shall recover these costs from lessees. All administrative costs recovered by the department must be deposited into the resource management cost account created in RCW 79.64.020. Prior to making recommendations to the legislature, a work session consisting of the department, marina owners, and stakeholders must be convened to discuss the rate-setting criteria. The legislature directs the department to deliver recommendations to the legislature by December 2003, including any minority reports by the participating parties.

(c) When developing its recommendation for a marina lease formula consistent with this subsection (7), the department shall ensure that the percentage of revenue established is applied to the income of the direct lessee, as well as to the income of any person or entity that subleases, or contracts to operate the marina, with the direct lessee, less the amount paid by the sublease to the direct lessee.

(d) All marina operators under lease with the department must return to the department an income reporting form, provided by the department, and certified by a licensed certified public accountant, before July 1, 2003, and again annually on a date set by the department. On the income reporting form, the department may require a marina to disclose to the department any information about income from all marina-related sources, excluding restaurants and bars. All income reports submitted to the department are subject to either audit or verification, or both, by the department, and the department may inspect all of the lessee's books, records, and documents, including state and federal income tax returns relating to the operation of the marina and leased aquatic lands at all reasonable times. If the lessee fails to submit the required income reporting form once the new method for calculating marina rents is effective, the department may conduct an audit at the lessee's expense or cancel the lease.

(e) Initially, the marina rent formula developed by the department pursuant to (b) of this subsection will be applied to each marina on its anniversary date,

beginning on July 1, 2004, and will be based on that marina's 2003 income information. Thereafter, rents will be recalculated each year, based on the marina's gross revenue from the previous year.

(f) No marina lease may be for less than five hundred dollars plus direct administrative costs.

(8) For all new leases for (~~marinas, or any~~) other water-dependent uses, issued after December 31, 1997, the initial annual water-dependent rent shall be determined by the methods in subsections (1) through (6) of this section.

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 takes effect immediately.

Passed by the House April 22, 2003.

Passed by the Senate April 16, 2003.

Approved by the Governor May 14, 2003.

Filed in Office of Secretary of State May 14, 2003.

CHAPTER 311

[Second Substitute House Bill 1095]

FOREST PRACTICES

AN ACT Relating to assisting small forest landowners with the forest road maintenance and abandonment plan elements of the forest practices rules; amending RCW 76.09.020, 76.09.055, and 76.09.390; adding new sections to chapter 76.09 RCW; adding a new section to chapter 76.13 RCW; adding a new section to chapter 77.12 RCW; creating new sections; and declaring an emergency.

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

NEW SECTION. Sec. 1. (1) The legislature finds that chapter 4, Laws of 1999 sp. sess. strongly encouraged the forest practices board to adopt administrative rules that were substantially similar to the recommendations presented to the legislature in the form of the forests and fish report. The rules adopted pursuant to the 1999 legislation require all forest landowners to complete a road maintenance and abandonment plan, and those rules cannot be changed by the forest practices board without either a final order from a court, direct instructions from the legislature, or a recommendation from the adaptive management process. In the time since the enactment of chapter 4, Laws of 1999 sp. sess., it has become clear that both the planning aspect and the implementation aspect of the road maintenance and abandonment plan requirement may cause an unforeseen and unintended disproportionate financial hardship on small forest landowners.

(2) The legislature further finds that the commissioner of public lands and the governor have explored solutions that minimize the hardship caused to small forest landowners by the forest road maintenance and abandonment requirements of the forests and fish law, while maintaining protection for public resources. This act represents recommendations stemming from that process.

(3) The legislature further finds that it is in the state's interest to help small forest landowners comply with the requirements of the forest practices rules in a way that does not require the landowner to spend unreasonably high and unpredictable amounts of money to complete road maintenance and abandonment plan preparation and implementation. Small forest landowners

provide significant wildlife habitat and serve as important buffers between urban development and Washington's public forest land holdings.

NEW SECTION. Sec. 2. A new section is added to chapter 76.09 RCW to read as follows:

(1) The state may not require a small forest landowner to invest in upgrades, replacements, or other engineering of a forest road, and any fish passage barriers that are a part of the road, that do not threaten public resources or create a barrier to the passage of fish.

(2) Participation in the forests and fish agreement provides a benefit to both the landowner in terms of federal assurances, and the public in terms of aquatic habitat preservation and water quality enhancement; therefore, if conditions do threaten public resources or create a fish passage barrier, the road maintenance and abandonment planning process may not require a small forest landowner to take a positive action that will result in high cost without a significant portion of that cost being shared by the public.

(3) Some fish passage barriers are more of a threat to public resources than others; therefore, no small forest landowner should be required to repair a fish passage barrier until higher priority fish passage barriers on other lands in the watershed have been repaired.

(4) If an existing fish passage barrier on land owned by a small forest landowner was installed under an approved forest practices application or notification, and hydraulics approval, and that fish passage barrier becomes a high priority for fish passage based on the watershed ranking in section 7 of this act, one hundred percent public funding shall be provided.

(5) The preparation of a road maintenance and abandonment plan can require technical expertise that may require large expenditures before the time that the landowner plans to conduct any revenue-generating operations on his or her land; therefore, small forest landowners should be allowed to complete a simplified road maintenance and abandonment plan checklist, that does not require professional engineering or forestry expertise to complete, and that does not need to be submitted until the time that the landowner submits a forest practices application or notification for final or intermediate harvesting, or for salvage of trees. This act is intended to provide an alternate way for small forest landowners to comply with the road maintenance and abandonment plan goals identified in the forest practices rules.

Sec. 3. RCW 76.09.020 and 2002 c 17 s 1 are each amended to read as follows:

~~((For purposes of this chapter:))~~ The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Adaptive management" means reliance on scientific methods to test the results of actions taken so that the management and related policy can be changed promptly and appropriately.

(2) "Appeals board" means the forest practices appeals board created by RCW 76.09.210.

(3) "Aquatic resources" includes water quality, salmon, other species of the vertebrate classes Cephalaspidomorphi and Osteichthyes identified in the forests and fish report, the Columbia torrent salamander (*Rhyacotriton kezeri*), the Cascade torrent salamander (*Rhyacotriton cascadae*), the Olympic torrent

salamander (*Rhyacotriton olympian*), the Dunn's salamander (*Plethodon dunni*), the Van Dyke's salamander (*Plethodon vandyke*), the tailed frog (*Ascaphus truei*), and their respective habitats.

(4) "Commissioner" means the commissioner of public lands.

(5) "Contiguous" means land adjoining or touching by common corner or otherwise. Land having common ownership divided by a road or other right of way shall be considered contiguous.

(6) "Conversion to a use other than commercial timber operation" means a bona fide conversion to an active use which is incompatible with timber growing and as may be defined by forest practices rules.

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

(8) "Fish passage barrier" means any artificial instream structure that impedes the free passage of fish.

(9) "Forest land" means all land which is capable of supporting a merchantable stand of timber and is not being actively used for a use which is incompatible with timber growing. Forest land does not include agricultural land that is or was enrolled in the conservation reserve enhancement program by contract if such agricultural land was historically used for agricultural purposes and the landowner intends to continue to use the land for agricultural purposes in the future. As it applies to the operation of the road maintenance and abandonment plan element of the forest practices rules on small forest landowners, the term "forest land" excludes:

(a) Residential home sites, which may include up to five acres; and

(b) Cropfields, orchards, vineyards, pastures, feedlots, fish pens, and the land on which appurtenances necessary to the production, preparation, or sale of crops, fruit, dairy products, fish, and livestock exist.

~~((9))~~ (10) "Forest landowner" means any person in actual control of forest land, whether such control is based either on legal or equitable title, or on any other interest entitling the holder to sell or otherwise dispose of any or all of the timber on such land in any manner (~~:- PROVIDED, That~~). ~~However~~, any lessee or other person in possession of forest land without legal or equitable title to such land shall be excluded from the definition of "forest landowner" unless such lessee or other person has the right to sell or otherwise dispose of any or all of the timber located on such forest land.

~~((10))~~ (11) "Forest practice" means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to:

(a) Road and trail construction;

(b) Harvesting, final and intermediate;

(c) Precommercial thinning;

(d) Reforestation;

(e) Fertilization;

(f) Prevention and suppression of diseases and insects;

(g) Salvage of trees; and

(h) Brush control.

"Forest practice" shall not include preparatory work such as tree marking, surveying and road flagging, and removal or harvesting of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms,

and other products which cannot normally be expected to result in damage to forest soils, timber, or public resources.

~~((11))~~ (12) "Forest practices rules" means any rules adopted pursuant to RCW 76.09.040.

~~((12))~~ (13) "Forest road," as it applies to the operation of the road maintenance and abandonment plan element of the forest practices rules on small forest landowners, means a road or road segment that crosses land that meets the definition of forest land, but excludes residential access roads.

(14) "Forest trees" does not include hardwood trees cultivated by agricultural methods in growing cycles shorter than fifteen years if the trees were planted on land that was not in forest use immediately before the trees were planted and before the land was prepared for planting the trees. "Forest trees" includes Christmas trees, but does not include Christmas trees that are cultivated by agricultural methods, as that term is defined in RCW 84.33.035.

~~((13))~~ (15) "Forests and fish report" means the forests and fish report to the board dated April 29, 1999.

~~((14))~~ (16) "Application" means the application required pursuant to RCW 76.09.050.

~~((15))~~ (17) "Operator" means any person engaging in forest practices except an employee with wages as his or her sole compensation.

~~((16))~~ (18) "Person" means any individual, partnership, private, public, or municipal corporation, county, the department or other state or local governmental entity, or association of individuals of whatever nature.

~~((17))~~ (19) "Public resources" means water, fish and wildlife, and in addition shall mean capital improvements of the state or its political subdivisions.

~~((18))~~ (20) "Small forest landowner" has the same meaning as defined in section 11 of this act.

(21) "Timber" means forest trees, standing or down, of a commercial species, including Christmas trees. However, "timber" does not include Christmas trees that are cultivated by agricultural methods, as that term is defined in RCW 84.33.035.

~~((19))~~ (22) "Timber owner" means any person having all or any part of the legal interest in timber. Where such timber is subject to a contract of sale, "timber owner" shall mean the contract purchaser.

~~((20))~~ (23) "Board" means the forest practices board created in RCW 76.09.030.

~~((21))~~ (24) "Unconfined avulsing channel migration zone" means the area within which the active channel of an unconfined avulsing stream is prone to move and where the movement would result in a potential near-term loss of riparian forest adjacent to the stream. Sizeable islands with productive timber may exist within the zone.

~~((22))~~ (25) "Unconfined avulsing stream" means generally fifth order or larger waters that experience abrupt shifts in channel location, creating a complex flood plain characterized by extensive gravel bars, disturbance species of vegetation of variable age, numerous side channels, wall-hased channels, oxbow lakes, and wetland complexes. Many of these streams have dikes and levees that may temporarily or permanently restrict channel movement.

NEW SECTION. Sec. 4. A new section is added to chapter 76.09 RCW to read as follows:

(1) The board must amend the forest practices rules relating to road maintenance and abandonment plans that exist on the effective date of this section to reflect the following:

(a) A forest landowner who owns a total of eighty acres or less of forest land in Washington is not required to submit a road maintenance and abandonment plan for any block of forest land that is twenty contiguous acres or less in area;

(b) A landowner who satisfies the definition of a small forest landowner, but who does not qualify under (a) of this subsection, is only required to submit a checklist road maintenance and abandonment plan with the abbreviated content requirements provided for in subsection (3) of this section, and is not required to comply with annual reporting and review requirements; and

(c) Existing forest roads must be maintained only to the extent necessary to prevent damage to public resources.

(2) The department must provide a landowner who is either exempted from submitting a road maintenance and abandonment plan under subsection (1)(a) of this section, or who qualifies for a checklist road maintenance and abandonment plan under subsection (1)(b) of this section, with an educational brochure outlining road maintenance standards and requirements. In addition, the department must develop a series of nonmandatory educational workshops on the rules associated with road construction and maintenance.

(3)(a) A landowner who qualifies for a checklist road maintenance and abandonment plan under subsection (1)(b) of this section is only required to submit a checklist, designed by the department in consultation with the small forest landowner office advisory committee created in RCW 76.13.110, that confirms that the landowner is applying the checklist criteria to forest roads covered or affected by a forest practices application or notification. When developing the checklist road maintenance and abandonment plan, the department shall ensure that the checklist does not exceed current state law. Nothing in this subsection increases or adds to small forest landowners' duties or responsibilities under any other section of the forest practices rules or any other state law or rule.

(b) A landowner who qualifies for the checklist road maintenance and abandonment plan is not required to submit the checklist before the time that he or she submits a forest practices application or notification for final or intermediate harvesting, or for salvage of trees. The department may encourage and accept checklists prior to the time that they are due.

(4) The department must monitor the extent of the checklist road maintenance and abandonment plan approach and report its findings to the appropriate committees of the legislature by December 31, 2008, and December 31, 2013.

(5) The board shall adopt emergency rules under RCW 34.05.090 by October 31, 2003, to implement this section. The emergency rules shall remain in effect until permanent rules can be adopted. The forest practices rules that relate to road maintenance and abandonment plans shall remain in effect as they existed on the effective date of this section until emergency rules have been adopted under this section.

(6) This section is only intended to relate to the board's duties as they relate to the road maintenance and abandonment plan element of the forests and fish report. Nothing in this section alters any forest landowner's duties and responsibilities under any other section of the forest practices rules, or any other state law or rule.

Sec. 5. RCW 76.09.055 and 2000 c 11 s 4 are each amended to read as follows:

(1) The legislature finds that the ~~((declines))~~ levels of fish stocks throughout much of the state require immediate action to be taken to help ~~((restore))~~ these fish runs where possible. The legislature also recognizes that federal and state agencies, tribes, county representatives, and private timberland owners have spent considerable effort and time to develop the forests and fish report. Given the agreement of the parties, the legislature believes that the immediate adoption of emergency rules is appropriate in this particular instance. These rules can implement many provisions of the forests and fish report to protect the economic well-being of the state, and to minimize the risk to the state and landowners to legal challenges. This authority is not designed to set any precedents for the forest practices board in future rule making or set any precedents for other rule-making bodies of the state.

(2) The forest practices board is authorized to adopt emergency rules amending the forest practices rules with respect to the protection of aquatic resources, in accordance with RCW 34.05.350, except: (a)(i) That the rules adopted under this section may remain in effect until permanent rules are adopted, or until June 30, 2001, whichever is sooner; (ii) that the rules adopted under section 4(5) of this act must remain in effect until permanent rules are adopted; (b) notice of the proposed rules must be published in the Washington State Register as provided in RCW 34.05.320; (c) at least one public hearing must be conducted with an opportunity to provide oral and written comments; and (d) a rule-making file must be maintained as required by RCW 34.05.370. In adopting ~~((the))~~ emergency rules consistent with this section, the board is not required to prepare a small business economic impact statement under chapter 19.85 RCW, prepare a statement indicating whether the rules constitute a significant legislative rule under RCW 34.05.328, prepare a significant legislative rule analysis under RCW 34.05.328, or follow the procedural requirements of the state environmental policy act, chapter 43.21C RCW. Except as provided in section 4 of this act, the forest practices board may only adopt recommendations contained in the forests and fish report as emergency rules under this section.

Sec. 6. RCW 76.09.390 and 1999 sp.s. c 4 s 707 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, prior to the sale or transfer of land or perpetual timber rights subject to continuing forest land obligations under the forest practices rules adopted under RCW 76.09.370, as specifically identified in the forests and fish report the seller shall notify the buyer of the existence and nature of such a continuing obligation and the buyer shall sign a notice of continuing forest land obligation indicating the buyer's knowledge thereof. The notice shall be on a form prepared by the department and shall be sent to the department by the seller at the time of sale or transfer of

the land or perpetual timber rights and retained by the department. If the seller fails to notify the buyer about the continuing forest land obligation, the seller shall pay the buyer's costs related to such continuing forest land obligation, including all legal costs and reasonable attorneys' fees, incurred by the buyer in enforcing the continuing forest land obligation against the seller. Failure by the seller to send the required notice to the department at the time of sale shall be prima facie evidence, in an action by the buyer against the seller for costs related to the continuing forest land obligation, that the seller did not notify the buyer of the continuing forest land obligation prior to sale.

(2) Subsection (1) of this section does not apply to checklist road maintenance and abandonment plans created by section 4 of this act.

NEW SECTION. Sec. 7. A new section is added to chapter 76.13 RCW to read as follows:

(1) The legislature finds that a state-led cost-sharing program is necessary to assist small forest landowners with removing and replacing fish passage barriers that were added to their land prior to the effective date of this section, to help achieve the goals of the forests and fish report, and to assist small forest landowners in complying with the state's fish passage requirements.

(2) The small forest landowner office must, in cooperation with the department of fish and wildlife, establish a program designed to assist small forest landowners with repairing or removing fish passage barriers and assist lead entities in acquiring the data necessary to fill any gaps in fish passage barrier information. The small forest landowner office and the department of fish and wildlife must work closely with lead entities or other local watershed groups to make maximum use of current information regarding the location and priority of current fish passage barriers. Where additional fish passage barrier inventories are necessary, funding will be sought for the collection of this information. Methods, protocols, and formulas for data gathering and prioritizing must be developed in consultation with the department of fish and wildlife. The department of fish and wildlife must assist in the training and management of fish passage barrier location data collection.

(3) The small forest landowner office must actively seek out funding for the program authorized in this section. The small forest landowner office must work with consenting landowners to identify and secure funding from local, state, federal, tribal, or nonprofit habitat restoration organizations and other private sources, including the salmon recovery funding board, the United States department of agriculture, the United States department of transportation, the Washington state department of transportation, the United States department of commerce, and the federal highway administration.

(4)(a) Except as otherwise provided in this subsection, the small forest landowner office, in implementing the program established in this section, must provide the highest proportion of public funding available for the removal or replacement of any fish passage barrier.

(b) In no case shall a small forest landowner be required to pay more than the lesser of either: (i) Twenty-five percent of any costs associated with the removal or replacement of a particular fish passage barrier; or (ii) five thousand dollars for the removal or replacement of a particular fish passage barrier. No small forest landowner shall be required to pay more than the maximum total annual costs in (c) of this subsection.

(c) The portion of the total cost of removing or replacing fish passage barriers that a small forest landowner must pay in any calendar year shall be determined based on the average annual timber volume harvested from the landowner's lands in this state during the three preceding calendar years, and whether the fish passage barrier is in eastern or western Washington.

(i) In western Washington (west of the Cascade Crest), a small forest landowner who has harvested an average annual timber volume of less than five hundred thousand board feet shall not be required to pay more than a total of eight thousand dollars during that calendar year, a small forest landowner who has harvested an annual average timber volume between five hundred thousand and nine hundred ninety-nine thousand board feet shall not be required to pay more than a total of sixteen thousand dollars during that calendar year, a small forest landowner who has harvested an average annual timber volume between one million and one million four hundred ninety-nine thousand board feet shall not be required to pay more than a total of twenty-four thousand dollars during that calendar year, and a small forest landowner who has harvested an average annual timber volume greater than or equal to one million five hundred thousand board feet shall not be required to pay more than a total of thirty-two thousand dollars during that calendar year, regardless of the number of fish passage barriers removed or replaced on the landowner's lands during that calendar year.

(ii) In eastern Washington (east of the Cascade Crest), a small forest landowner who has harvested an average annual timber volume of less than five hundred thousand board feet shall not be required to pay more than a total of two thousand dollars during that calendar year, a small forest landowner who has harvested an annual average timber volume between five hundred thousand and nine hundred ninety-nine thousand board feet shall not be required to pay more than a total of four thousand dollars during that calendar year, a small forest landowner who has harvested an average annual timber volume between one million and one million four hundred ninety-nine thousand board feet shall not be required to pay more than a total of twelve thousand dollars during that calendar year, and a small forest landowner who has harvested an average annual timber volume greater than or equal to one million five hundred thousand board feet shall not be required to pay more than a total of sixteen thousand dollars during that calendar year, regardless of the number of fish passage barriers removed or replaced on the landowner's lands during that calendar year.

(iii) Maximum total annual costs for small forest landowners with fish passage barriers in both western and eastern Washington shall be those specified under (c)(i) and (ii) of this subsection.

(d) If an existing fish passage barrier on land owned by a small forest landowner was installed under an approved forest practices application or notification, and hydraulics approval, and that fish passage barrier becomes a high priority for fish passage based on the watershed ranking in section 7 of this act, one hundred percent public funding shall be provided.

(5) If a small forest landowner is required to contribute a portion of the funding under the cost-share program established in this section, that landowner may satisfy his or her required proportion by providing either direct monetary contributions or in-kind services to the project. In-kind services may include labor, equipment, materials, and other landowner-provided services determined

by the department to have an appropriate value to the removal of a particular fish passage barrier.

(6)(a) The department, using fish passage barrier assessments and ranked inventory information provided by the department of fish and wildlife and the appropriate lead entity as delineated in section 10 of this act, must establish a prioritized list for the funding of fish passage barrier removals on property owned by small forest landowners that ensures that funding is provided first to the known fish passage barriers existing on forest land owned by small forest landowners that cause the greatest harm to public resources.

(b) As the department collects information about the presence of fish passage barriers from submitted checklists, it must share this information with the department of fish and wildlife and the technical advisory groups established in RCW 77.85.070. If the addition of the information collected in the checklists or any other changes to the scientific instruments described in section 10 of this act alter the analysis conducted under section 10 of this act, the department must alter the funding order appropriately to reflect the new information.

(7) The department may accept commitments from small forest landowners that they will participate in the program to remove fish passage barriers from their land at any time, regardless of the funding order given to the fish passage barriers on a particular landowner's property.

NEW SECTION. Sec. 8. A new section is added to chapter 76.09 RCW to read as follows:

Section 7 of this act applies to road maintenance and abandonment plans under this chapter.

NEW SECTION. Sec. 9. A new section is added to chapter 76.09 RCW to read as follows:

The department shall not disapprove a forest practices application filed by a small forest landowner on the basis that fish passage barriers have not been removed or replaced if the small forest landowner filing the application has committed to participate in the program established in section 7 of this act for all fish passage barriers existing on the block of forest land covered by the forest practices application, and the fish passage barriers existing on the block of forest land covered by the forest practices application are lower on the funding order list established for the program than the current projects that are capable of being funded by the program.

NEW SECTION. Sec. 10. A new section is added to chapter 77.12 RCW to read as follows:

In coordination with the department of natural resources and lead entity groups, the department must establish a ranked inventory of fish passage barriers on land owned by small forest landowners based on the principle of fixing the worst first within a watershed consistent with the fish passage priorities of the forest and fish report. The department shall first gather and synthesize all available existing information about the locations and impacts of fish passage barriers in Washington. This information must include, but not be limited to, the most recently available limiting factors analysis conducted pursuant to RCW 77.85.060(2), the stock status information contained in the department of fish and wildlife salmonid stock inventory (SASSI), the salmon and steelhead habitat inventory and assessment project (SSHIAP), and any comparable science-based

assessment when available. The inventory of fish passage barriers must be kept current and at a minimum be updated by the beginning of each calendar year. Nothing in this section grants the department or others additional right of entry onto private property.

NEW SECTION. Sec. 11. A new section is added to chapter 76.09 RCW to read as follows:

For the purposes of this chapter and sections 7 and 10 of this act, "small forest landowner" means an owner of forest land who, at the time of submission of required documentation to the department, has harvested from his or her own lands in this state no more than an average timber volume of two million board feet per year during the three years prior to submitting documentation to the department and who certifies that he or she does not expect to harvest from his or her own lands in the state more than an average timber volume of two million board feet per year during the ten years following the submission of documentation to the department. However, any landowner who exceeded the two million board feet annual average timber harvest threshold from their land in the three years prior to submitting documentation to the department, or who expects to exceed the threshold during any of the following ten years, shall still be deemed a "small forest landowner" if he or she establishes to the department's reasonable satisfaction that the harvest limits were, or will be, exceeded in order to raise funds to pay estate taxes or for an equally compelling and unexpected obligation, such as for a court-ordered judgment or for extraordinary medical expenses.

NEW SECTION. Sec. 12. The existing policy committees of the senate and house of representatives that deal with natural resources issues must review and study the implementation of this act, including checklist preparation and the meaning of both defined and undefined words in chapters 76.09 and 76.13 RCW, and report to the legislature by January 2004.

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 takes effect immediately.

Passed by the House April 21, 2003.

Passed by the Senate April 9, 2003.

Approved by the Governor May 14, 2003.

Filed in Office of Secretary of State May 14, 2003.

CHAPTER 312

[Senate Bill 5042]

DEPARTMENT OF NATURAL RESOURCES—CONTRACTS

AN ACT Relating to the department of natural resources' contractual authority; and amending RCW 43.30.130.

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

Sec. 1. RCW 43.30.130 and 1965 c 8 s 43.30.130 are each amended to read as follows:

(1) The department shall exercise all of the powers, duties, and functions now vested in the commissioner of public lands and such powers, duties, and

functions are hereby transferred to the department(~~(=PROVIDED, That)~~), However, nothing ((herein)) contained in this section shall effect ((his)) the commissioner's ex officio membership on any committee provided by law.

(2)(a) Except as provided in (b) of this subsection, and subject to the limitations of RCW 4.24.115, the department, in the exercise of any of its powers, may include in any authorized contract a provision for indemnifying the other contracting party against loss or damages.

(b) When executing a right of way or easement contract over private land that involves forest management activities, the department shall indemnify the private landowner if the landowner does not receive a direct benefit from the contract.

Passed by the Senate April 21, 2003.

Passed by the House April 9, 2003.

Approved by the Governor May 14, 2003.

Filed in Office of Secretary of State May 14, 2003.

CHAPTER 313

[Second Substitute Senate Bill 5074]

CONTRACT HARVESTING

AN ACT Relating to the authority of the department of natural resources to contract for the harvest of timber from state trust lands; amending RCW 76.12.030, 76.12.120, 79.64.040, 43.85.130, and 84.33.078; reenacting and amending RCW 43.79A.040 and 84.33.035; adding a new chapter to Title 79 RCW; and creating new sections.

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

NEW SECTION. Sec. 1. The legislature finds that it is in the best interest of the trust beneficiaries to capture additional revenues while providing for additional environmental protection on timber sales. Further, the legislature finds that contract harvesting is one method to achieve these desired outcomes. Therefore, the legislature directs the department of natural resources to establish and implement contract harvesting where there exists the ability to increase revenues for the beneficiaries of the trusts while obtaining increases in environmental protection.

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

(1) "Commissioner" means the commissioner of public lands.

(2) "Contract harvesting" means a timber operation occurring on state forest lands, in which the department contracts with a firm or individual to perform all the necessary harvesting work to process trees into logs sorted by department specifications. The department then sells the individual log sorts.

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

(4) "Harvesting costs" are those expenses related to the production of log sorts from a stand of timber. These expenses typically involve road building, labor for felling, bucking, and yarding, as well as the transporting of sorted logs to the forest product purchasers.

(5) "Net proceeds" means gross proceeds from a contract harvesting sale less harvesting costs.

NEW SECTION. Sec. 3. (1) The department may establish a contract harvesting program by directly contracting for the removal of timber and other valuable materials from state lands.

(2) The contract requirements must be compatible with the office of financial management's guide to public service contracts.

(3) The department may not use contract harvesting for more than ten percent of the total annual volume of timber offered for sale.

NEW SECTION. Sec. 4. The contract harvesting revolving account is created in the custody of the state treasurer. All receipts from the gross proceeds of the sale of logs from a contract harvesting must be deposited into the account. Expenditures from the account may be used only for the payment of harvesting costs incurred on contract harvesting sales. Only the commissioner or the commissioner's designee may authorize expenditures from the account. The board of natural resources has oversight of the account, and the commissioner must periodically report to the board of natural resources as to the status of the account, its disbursement, and receipts. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

When the logs from a contract harvesting sale are sold, the gross proceeds must be deposited into the contract harvesting revolving account. Moneys equal to the harvesting costs must be retained in the account and be deducted from the gross proceeds to determine the net proceeds. The net proceeds from the sale of the logs must be distributed in accordance with RCW 43.85.130(1)(b). The final receipt of gross proceeds on a contract harvesting sale must be retained in the contract harvesting revolving account until all required costs for that sale have been paid. The contract harvesting revolving account is an interest-bearing account and the interest must be credited to the account. The account balance may not exceed one million dollars at the end of each fiscal year. Moneys in excess of one million dollars must be disbursed according to RCW 76.12.030, 76.12.120, and 79.64.040. If the department permanently discontinues the use of contract harvesting sales, any sums remaining in the contract harvesting revolving account must be returned to the resource management cost account and the forest development account in proportion to each account's contribution to the initial balance of the contract harvesting revolving account.

NEW SECTION. Sec. 5. The board of natural resources must determine whether any special appraisal practices are necessary for logs sold by the contract harvesting processes, and if so, must adopt the special appraisal practices or procedures. In its consideration of special appraisal practices, the board of natural resources must consider and adopt procedures to rapidly market and sell any log sorts that failed to receive the required minimum bid at the original auction, which may include allowing the department to set a new appraised value for the unsold sort.

The board of natural resources must establish and adopt policy and procedures by which the department evaluates and selects certified contract harvesters. The procedures must include a method whereby a certified contract harvester may appeal a decision by the department or board of natural resources to not include the certified contract harvester on the list of approved contract harvesters.

Sec. 6. RCW 76.12.030 and 1997 c 370 s 1 are each amended to read as follows:

If any land acquired by a county through foreclosure of tax liens, or otherwise, comes within the classification of land described in RCW 76.12.020 and can be used as state forest land and if the department deems such land necessary for the purposes of this chapter, the county shall, upon demand by the department, deed such land to the department and the land shall become a part of the state forest lands.

Such land shall be held in trust and administered and protected by the department as other state forest lands. Any moneys derived from the lease of such land or from the sale of forest products, oils, gases, coal, minerals, or fossils therefrom, shall be distributed as follows:

(1) The expense incurred by the state for administration, reforestation, and protection, not to exceed twenty-five percent, which rate of percentage shall be determined by the board of natural resources, shall be returned to the forest development account in the state general fund.

(2) Any balance remaining shall be paid to the county in which the land is located to be paid, distributed, and prorated, except as hereinafter provided, to the various funds in the same manner as general taxes are paid and distributed during the year of payment: PROVIDED, That any such balance remaining paid to a county with a population of less than sixteen thousand shall first be applied to the reduction of any indebtedness existing in the current expense fund of such county during the year of payment.

In the event that the department sells logs using the contract harvesting process described in chapter 79.-- RCW (sections 2 through 5 of this act), the moneys derived subject to this section are the net proceeds from the contract harvesting sale.

Sec. 7. RCW 76.12.120 and 2000 c 148 s 2 are each amended to read as follows:

Except as provided in RCW 76.12.125, all land, acquired or designated by the department as state forest land, shall be forever reserved from sale, but the timber and other products thereon may be sold or the land may be leased in the same manner and for the same purposes as is authorized for state granted land if the department finds such sale or lease to be in the best interests of the state and approves the terms and conditions thereof.

Except as provided in RCW 79.12.035, all money derived from the sale of timber or other products, or from lease, or from any other source from the land, except where the Constitution of this state or RCW 76.12.030 requires other disposition, shall be disposed of as follows:

(1) Fifty percent shall be placed in the forest development account.

(2) Fifty percent shall be prorated and distributed to the state general fund, to be dedicated for the benefit of the public schools, and the county in which the land is located according to the relative proportions of tax levies of all taxing districts in the county. The portion to be distributed to the state general fund shall be based on the regular school levy rate under RCW 84.52.065 as now or hereafter amended and the levy rate for any maintenance and operation special school levies. With regard to the portion to be distributed to the counties, the department shall certify to the state treasurer the amounts to be distributed within seven working days of receipt of the money. The state treasurer shall

distribute funds to the counties four times per month, with no more than ten days between each payment date. The money distributed to the county shall be paid, distributed, and prorated to the various other funds in the same manner as general taxes are paid and distributed during the year of payment.

In the event that the department sells logs using the contract harvesting process described in chapter 79.-- RCW (sections 2 through 5 of this act), the moneys received subject to this section are the net proceeds from the contract harvesting sale.

Sec. 8. RCW 79.64.040 and 2001 c 250 s 16 are each amended to read as follows:

The board shall determine the amount deemed necessary in order to achieve the purposes of this chapter and shall provide by rule for the deduction of this amount from the moneys received from all leases, sales, contracts, licenses, permits, easements, and rights of way issued by the department and affecting public lands, provided that no deduction shall be made from the proceeds from agricultural college lands. Moneys received as deposits from successful bidders, advance payments, and security under RCW 79.01.132 and 79.01.204 prior to December 1, 1981, which have not been subjected to deduction under this section are not subject to deduction under this section. The deductions authorized under this section shall in no event exceed twenty-five percent of the moneys received by the department in connection with any one transaction pertaining to public lands other than second class tide and shore lands and the beds of navigable waters, and fifty percent of the moneys received by the department pertaining to second class tide and shore lands and the beds of navigable waters.

In the event that the department sells logs using the contract harvesting process described in chapter 79.-- RCW (sections 2 through 5 of this act), the moneys received subject to this section are the net proceeds from the contract harvesting sale.

Sec. 9. RCW 43.85.130 and 1981 2nd ex.s. c 4 s 1 are each amended to read as follows:

(1) The department shall deposit daily all moneys and fees collected or received by the commissioner of public lands and the department of natural resources in the discharge of official duties as follows:

(a) The department shall pay moneys received as advance payments, deposits, and security from successful bidders under RCW 79.01.132 and 79.01.204 to the state treasurer for deposit under subsection (1)(b) of this section. Moneys received from unsuccessful bidders shall be returned as provided in RCW 79.01.204;

(b) The department shall pay all moneys received on behalf of a trust fund or account to the state treasurer for deposit in the trust fund or account after making the deduction authorized under RCW 76.12.030, 76.12.120, ~~((and))~~ 79.64.040, and section 4 of this act;

(c) The natural resources deposit fund is hereby created. The state treasurer is the custodian of the fund. All moneys or sums which remain in the custody of the commissioner of public lands awaiting disposition or where the final disposition is not known shall be deposited into the natural resources deposit fund. Disbursement from the fund shall be on the authorization of the

commissioner or the commissioner's designee, without necessity of appropriation;

(d) If it is required by law that the department repay moneys disbursed under subsections (1)(a) and (1)(b) of this section the state treasurer shall transfer such moneys, without necessity of appropriation, to the department upon demand by the department from those trusts and accounts originally receiving the moneys.

(2) Money shall not be deemed to have been paid to the state upon any sale or lease of land until it has been paid to the state treasurer.

Sec. 10. RCW 43.79A.040 and 2002 c 322 s 5, 2002 c 204 s 7, and 2002 c 61 s 6 are each reenacted and amended to read as follows:

(1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury.

(2) All income received from investment of the treasurer's trust fund shall be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer shall distribute the earnings credited to the investment income account to the state general fund except under (b) and (c) of this subsection.

(b) The following accounts and funds shall receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The Washington promise scholarship account, the college savings program account, the Washington advanced college tuition payment program account, the agricultural local fund, the American Indian scholarship endowment fund, the basic health plan self-insurance reserve account, the contract harvesting revolving account, the Washington state combined fund drive account, the Washington international exchange scholarship endowment fund, the developmental disabilities endowment trust fund, the energy account, the fair fund, the fruit and vegetable inspection account, the game farm alternative account, the grain inspection revolving fund, the juvenile accountability incentive account, the rural rehabilitation account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the sulfur dioxide abatement account, and the children's trust fund. However, the earnings to be distributed shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(c) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advanced right of way revolving fund, the advanced environmental mitigation revolving account, the city and county advance right-of-way revolving fund, the federal narcotics asset forfeitures

account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

Sec. 11. RCW 84.33.078 and 1986 c 65 s 1 are each amended to read as follows:

When any timber standing on public land, other than federally owned land, is sold separate from the land, the department of natural resources or other governmental unit, as appropriate, shall state in its notice of the sale or prospectus that timber sold separate from the land is subject to property tax and that the amount of the tax paid may be used as a credit against any tax imposed with respect to business of harvesting timber from publicly owned land under RCW 84.33.041. If the timber from public land is harvested by the state, its departments and institutions and political subdivisions, or any municipal corporation therein, the governmental unit, or governmental units, that harvest or market the timber must provide the harvester purchasing the timber with its harvesting and marketing costs as defined in RCW 84.33.035(7).

Sec. 12. RCW 84.33.035 and 2001 c 249 s 1 and 2001 c 97 s 1 are each reenacted and amended to read as follows:

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

(1) "Agricultural methods" means the cultivation of trees that are grown on land prepared by intensive cultivation and tilling, such as irrigating, plowing, or turning over the soil, and on which all unwanted plant growth is controlled continuously for the exclusive purpose of raising trees such as Christmas trees and short-rotation hardwoods.

(2) "Average rate of inflation" means the annual rate of inflation as determined by the department averaged over the period of time as provided in RCW 84.33.220 (1) and (2). This rate shall be published in the state register by the department not later than January 1st of each year for use in that assessment year.

(3) "Composite property tax rate" for a county means the total amount of property taxes levied upon forest lands by all taxing districts in the county other than the state, divided by the total assessed value of all forest land in the county.

(4) "Forest land" is synonymous with "designated forest land" and means any parcel of land that is twenty or more acres or multiple parcels of land that are contiguous and total twenty or more acres that is or are devoted primarily to growing and harvesting timber. Designated forest land means the land only and does not include a residential homesite. The term includes land used for incidental uses that are compatible with the growing and harvesting of timber but no more than ten percent of the land may be used for such incidental uses. It also includes the land on which appurtenances necessary for the production, preparation, or sale of the timber products exist in conjunction with land producing these products.

(5) "Harvested" means the time when in the ordinary course of business the quantity of timber by species is first definitely determined. The amount harvested shall be determined by the Scribner Decimal C Scale or other

prevalent measuring practice adjusted to arrive at substantially equivalent measurements, as approved by the department.

(6) "Harvester" means every person who from the person's own land or from the land of another under a right or license granted by lease or contract, either directly or by contracting with others for the necessary labor or mechanical services, fells, cuts, or takes timber for sale or for commercial or industrial use. When the United States or any instrumentality thereof, the state, including its departments and institutions and political subdivisions, or any municipal corporation therein so fells, cuts, or takes timber for sale or for commercial or industrial use, the harvester is the first person other than the United States or any instrumentality thereof, the state, including its departments and institutions and political subdivisions, or any municipal corporation therein, who acquires title to or a possessory interest in the timber. The term "harvester" does not include persons performing under contract the necessary labor or mechanical services for a harvester.

(7) "Harvesting and marketing costs" means only those costs directly associated with harvesting the timber from the land and delivering it to the buyer and may include the costs of disposing of logging residues. Any other costs that are not directly and exclusively related to harvesting and marketing of the timber, such as costs of permanent roads or costs of reforesting the land following harvest, are not harvesting and marketing costs.

(8) "Incidental use" means a use of designated forest land that is compatible with its purpose for growing and harvesting timber. An incidental use may include a gravel pit, a shed or land used to store machinery or equipment used in conjunction with the timber enterprise, and any other use that does not interfere with or indicate that the forest land is no longer primarily being used to grow and harvest timber.

(9) "Local government" means any city, town, county, water-sewer district, public utility district, port district, irrigation district, flood control district, or any other municipal corporation, quasi-municipal corporation, or other political subdivision authorized to levy special benefit assessments for sanitary or storm sewerage systems, domestic water supply or distribution systems, or road construction or improvement purposes.

(10) "Local improvement district" means any local improvement district, utility local improvement district, local utility district, road improvement district, or any similar unit created by a local government for the purpose of levying special benefit assessments against property specially benefited by improvements relating to the districts.

(11) "Owner" means the party or parties having the fee interest in land, except where land is subject to a real estate contract "owner" means the contract vendee.

(12) "Primarily" or "primary use" means the existing use of the land is so prevalent that when the characteristic use of the land is evaluated any other use appears to be conflicting or nonrelated.

(13) "Short-rotation hardwoods" means hardwood trees, such as but not limited to hybrid cottonwoods, cultivated by agricultural methods in growing cycles shorter than fifteen years.

(14) "Small harvester" means every person who from his or her own land or from the land of another under a right or license granted by lease or contract,

either directly or by contracting with others for the necessary labor or mechanical services, fells, cuts, or takes timber for sale or for commercial or industrial use in an amount not exceeding two million board feet in a calendar year. When the United States or any instrumentality thereof, the state, including its departments and institutions and political subdivisions, or any municipal corporation therein so fells, cuts, or takes timber for sale or for commercial or industrial use, not exceeding these amounts, the small harvester is the first person other than the United States or any instrumentality thereof, the state, including its departments and institutions and political subdivisions, or any municipal corporation therein, who acquires title to or a possessory interest in the timber. Small harvester does not include persons performing under contract the necessary labor or mechanical services for a harvester, and it does not include the harvesters of Christmas trees or short-rotation hardwoods.

(15) "Special benefit assessments" means special assessments levied or capable of being levied in any local improvement district or otherwise levied or capable of being levied by a local government to pay for all or part of the costs of a local improvement and which may be levied only for the special benefits to be realized by property by reason of that local improvement.

(16) "Stumpage value of timber" means the appropriate stumpage value shown on tables prepared by the department under RCW 84.33.091, provided that for timber harvested from public land and sold under a competitive bidding process, stumpage value shall mean the actual amount paid to the seller in cash or other consideration. The stumpage value of timber from public land does not include harvesting and marketing costs if the timber from public land is harvested by, or under contract for, the United States or any instrumentality of the United States, the state, including its departments and institutions and political subdivisions, or any municipal corporation therein. Whenever payment for the stumpage includes considerations other than cash, the value shall be the fair market value of the other consideration. If the other consideration is permanent roads, the value of the roads shall be the appraised value as appraised by the seller.

(17) "Timber" means forest trees, standing or down, on privately or publicly owned land, and except as provided in RCW 84.33.170 includes Christmas trees and short-rotation hardwoods.

(18) "Timber assessed value" for a county means a value, calculated by the department before October 1st of each year, equal to the total stumpage value of timber harvested from privately owned land in the county during the most recent four calendar quarters for which the information is available multiplied by a ratio. The numerator of the ratio is the rate of tax imposed by the county under RCW 84.33.051 for the year of the calculation. The denominator of the ratio is the composite property tax rate for the county for taxes due in the year of the calculation, expressed as a percentage of assessed value.

(19) "Timber assessed value" for a taxing district means the timber assessed value for the county multiplied by a ratio. The numerator of the ratio is the total assessed value of forest land in the taxing district. The denominator is the total assessed value of forest land in the county. As used in this section, "assessed value of forest land" means the assessed value of forest land for taxes due in the year the timber assessed value for the county is calculated.

(20) "Timber management plan" means a plan prepared by a trained forester, or any other person with adequate knowledge of timber management practices, concerning the use of the land to grow and harvest timber. Such a plan includes:

- (a) A legal description of the forest land;
- (b) A statement that the forest land is held in contiguous ownership of twenty or more acres and is primarily devoted to and used to grow and harvest timber;
- (c) A brief description of the timber on the forest land or, if the timber on the land has been harvested, the owner's plan to restock the land with timber;
- (d) A statement about whether the forest land is also used to graze livestock;
- (e) A statement about whether the land has been used in compliance with the restocking, forest management, fire protection, insect and disease control, and forest debris provisions of Title 76 RCW; and
- (f) If the land has been recently harvested or supports a growth of brush and noncommercial type timber, a description of the owner's plan to restock the forest land within three years.

NEW SECTION. Sec. 13. The department of natural resources must provide a report to the appropriate committees of the legislature concerning the costs and effectiveness of the contract harvesting program. The report must be submitted by December 31, 2006.

NEW SECTION. Sec. 14. Sections 2 through 5 of this act constitute a new chapter in Title 79 RCW.

NEW SECTION. Sec. 15. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed by the Senate March 17, 2003.

Passed by the House April 10, 2003.

Approved by the Governor May 14, 2003.

Filed in Office of Secretary of State May 14, 2003.

CHAPTER 314

[Substitute Senate Bill 5144]

FOREST HEALTH

AN ACT Relating to protecting forest health; amending RCW 76.06.010, 76.06.020, 76.09.050, and 17.24.171; reenacting and amending RCW 76.09.060; adding a new section to chapter 76.06 RCW; adding a new section to chapter 17.24 RCW; and creating a new section.

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

Sec. 1. RCW 76.06.010 and 1951 c 233 s 1 are each amended to read as follows:

The legislature finds and declares that:

(1) Forest insects and forest tree diseases which threaten the permanent timber production of the forested areas of the state of Washington are ~~((hereby declared to be))~~ a public nuisance.

(2) Exotic forest insects or diseases, even in small numbers, can constitute serious threats to native forests. Native tree species may lack natural immunity. There are often no natural control agents such as diseases, predators, or parasites

to limit populations of exotic forest insects or diseases. Exotic forest insects or diseases can also outcompete, displace, or destroy habitat of native species. It is in the public interest to identify, control, and eradicate outbreaks of exotic forest insects or diseases that threaten the diversity, abundance, and survivability of native forest trees and the environment.

Sec. 2. RCW 76.06.020 and 2000 c 11 s 2 are each amended to read as follows:

~~((As used in))~~ The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Agent" means the recognized legal representative, representatives, agent, or agents for any owner(;;).

(2) "Department" means the department of natural resources(;;).

(3) "Owner" means and includes ~~((individuals, partnerships, corporations, and associations;))~~ persons or their agents.

(4) "Timber land" means any land on which there is a sufficient number of trees, standing or down, to constitute, in the judgment of the department, a forest insect or forest disease breeding ground of a nature to constitute a menace, injurious and dangerous to permanent forest growth in the district under consideration.

(5) "Commissioner" means the commissioner of public lands.

(6) "Exotic" means not native to forest lands in Washington state.

(7) "Forest land" means any land on which there are sufficient numbers and distribution of trees and associated species to, in the judgment of the department, contribute to the spread of forest insect or forest disease outbreaks that could be injurious to forest health.

(8) "Forest health" means the condition of a forest being sound in ecological function, sustainable, resilient, and resistant to insects, diseases, fire, and other disturbance, and having the capacity to meet landowner objectives.

(9) "Forest health emergency" means the introduction of, or an outbreak of, an exotic forest insect or disease that poses an imminent danger of damage to the environment by threatening the survivability of native tree species.

(10) "Forest insect or disease" means a living stage of an insect, other invertebrate animal, or disease-causing organism or agent that can directly or indirectly injure or cause disease or damage in trees, or parts of trees, or in processed or manufactured wood, or other products of trees.

(11) "Integrated pest management" means a strategy that uses various combinations of pest control methods, including biological, cultural, and chemical methods, in a compatible manner to achieve satisfactory control and ensure favorable economic and environmental consequences.

(12) "Native" means having populated Washington's forested lands prior to European settlement.

(13) "Outbreak" means a rapidly expanding population of insects or diseases with potential to spread.

(14) "Person" means any individual, partnership, private, public, or municipal corporation, county, federal, state, or local governmental agency, tribes, or association of individuals of whatever nature.

NEW SECTION. Sec. 3. A new section is added to chapter 76.06 RCW to read as follows:

The department is authorized to contribute resources and expertise to assist the department of agriculture in control or eradication efforts authorized under chapter 17.24 RCW in order to protect forest lands of the state.

If either the department of agriculture has not taken action under chapter 17.24 RCW or the commissioner finds that additional efforts are required to control or prevent an outbreak of an exotic forest insect or disease which has not become so habituated that it can no longer be eradicated and that poses an imminent danger of damage to the forested environment by threatening the diversity, abundance, and survivability of native tree species, or both, the commissioner may declare a forest health emergency.

Upon declaration of a forest health emergency, the department must delineate the area at risk and determine the most appropriate integrated pest management methods to control the outbreak, in consultation with other interested agencies, affected tribes, and affected forest landowners. The department must notify affected forest landowners of its intent to conduct control operations.

Upon declaration of a forest health emergency by the commissioner, the department is authorized to enter into agreements with forest landowners, companies, individuals, tribal entities, and federal, state, and local agencies to accomplish control of exotic forest insects or diseases on any affected forest lands using such funds as have been, or may be, made available.

The department must proceed with the control of the exotic forest insects or diseases on affected nonfederal and nontribal forest lands with or without the cooperation of the owner. The department may reimburse cooperating forest landowners and agencies for actual cost of equipment, labor, and materials utilized in cooperative exotic forest insect or disease control projects, as agreed to by the department.

A forest health emergency no longer exists when the department finds that the exotic forest insect or disease has been controlled or eradicated, that the imminent threat no longer exists, or that there is no longer good likelihood of effective control.

Nothing under this chapter diminishes the authority and responsibility of the department of agriculture under chapter 17.24 RCW.

Sec. 4. RCW 76.09.050 and 2002 c 121 s 1 are each amended to read as follows:

(1) The board shall establish by rule which forest practices shall be included within each of the following classes:

Class I: Minimal or specific forest practices that have no direct potential for damaging a public resource and that may be conducted without submitting an application or a notification except that when the regulating authority is transferred to a local governmental entity, those Class I forest practices that involve timber harvesting or road construction within "urban growth areas," designated pursuant to chapter 36.70A RCW, are processed as Class IV forest practices, but are not subject to environmental review under chapter 43.21C RCW;

Class II: Forest practices which have a less than ordinary potential for damaging a public resource that may be conducted without submitting an application and may begin five calendar days, or such lesser time as the department may determine, after written notification by the operator, in the

manner, content, and form as prescribed by the department, is received by the department. However, the work may not begin until all forest practice fees required under RCW 76.09.065 have been received by the department. Class II shall not include forest practices:

- (a) On lands platted after January 1, 1960, as provided in chapter 58.17 RCW or on lands that have or are being converted to another use;
- (b) Which require approvals under the provisions of the hydraulics act, RCW 77.55.100;
- (c) Within "shorelines of the state" as defined in RCW 90.58.030;
- (d) Excluded from Class II by the board; or
- (e) Including timber harvesting or road construction within "urban growth areas," designated pursuant to chapter 36.70A RCW, which are Class IV;

Class III: Forest practices other than those contained in Class I, II, or IV. A Class III application must be approved or disapproved by the department within thirty calendar days from the date the department receives the application. However, the applicant may not begin work on that forest practice until all forest practice fees required under RCW 76.09.065 have been received by the department;

Class IV: Forest practices other than those contained in Class I or II: (a) On lands platted after January 1, 1960, as provided in chapter 58.17 RCW, (b) on lands that have or are being converted to another use, (c) on lands which, pursuant to RCW 76.09.070 as now or hereafter amended, are not to be reforested because of the likelihood of future conversion to urban development, (d) involving timber harvesting or road construction on lands that are contained within "urban growth areas," designated pursuant to chapter 36.70A RCW, except where the forest landowner provides: (i) A written statement of intent signed by the forest landowner not to convert to a use other than commercial forest product operations for ten years, accompanied by either a written forest management plan acceptable to the department or documentation that the land is enrolled under the provisions of chapter 84.33 RCW; or (ii) a conversion option harvest plan approved by the local governmental entity and submitted to the department as part of the application, and/or (e) which have a potential for a substantial impact on the environment and therefore require an evaluation by the department as to whether or not a detailed statement must be prepared pursuant to the state environmental policy act, chapter 43.21C RCW. Such evaluation shall be made within ten days from the date the department receives the application: PROVIDED, That nothing herein shall be construed to prevent any local or regional governmental entity from determining that a detailed statement must be prepared for an action pursuant to a Class IV forest practice taken by that governmental entity concerning the land on which forest practices will be conducted. A Class IV application must be approved or disapproved by the department within thirty calendar days from the date the department receives the application, unless the department determines that a detailed statement must be made, in which case the application must be approved or disapproved by the department within sixty calendar days from the date the department receives the application, unless the commissioner of public lands, through the promulgation of a formal order, determines that the process cannot be completed within such period. However, the applicant may not begin work on that forest practice until

all forest practice fees required under RCW 76.09.065 have been received by the department.

Forest practices under Classes I, II, and III are exempt from the requirements for preparation of a detailed statement under the state environmental policy act.

(2) Except for those forest practices being regulated by local governmental entities as provided elsewhere in this chapter, no Class II, Class III, or Class IV forest practice shall be commenced or continued after January 1, 1975, unless the department has received a notification with regard to a Class II forest practice or approved an application with regard to a Class III or Class IV forest practice containing all information required by RCW 76.09.060 as now or hereafter amended. However, in the event forest practices regulations necessary for the scheduled implementation of this chapter and RCW 90.48.420 have not been adopted in time to meet such schedules, the department shall have the authority to regulate forest practices and approve applications on such terms and conditions consistent with this chapter and RCW 90.48.420 and the purposes and policies of RCW 76.09.010 until applicable forest practices regulations are in effect.

(3) Except for those forest practices being regulated by local governmental entities as provided elsewhere in this chapter, if a notification or application is delivered in person to the department by the operator or the operator's agent, the department shall immediately provide a dated receipt thereof. In all other cases, the department shall immediately mail a dated receipt to the operator.

(4) Except for those forest practices being regulated by local governmental entities as provided elsewhere in this chapter, forest practices shall be conducted in accordance with the forest practices regulations, orders and directives as authorized by this chapter or the forest practices regulations, and the terms and conditions of any approved applications.

(5) Except for those forest practices being regulated by local governmental entities as provided elsewhere in this chapter, the department of natural resources shall notify the applicant in writing of either its approval of the application or its disapproval of the application and the specific manner in which the application fails to comply with the provisions of this section or with the forest practices regulations. Except as provided otherwise in this section, if the department fails to either approve or disapprove an application or any portion thereof within the applicable time limit, the application shall be deemed approved and the operation may be commenced: PROVIDED, That this provision shall not apply to applications which are neither approved nor disapproved pursuant to the provisions of subsection (7) of this section: PROVIDED, FURTHER, That if seasonal field conditions prevent the department from being able to properly evaluate the application, the department may issue an approval conditional upon further review within sixty days: PROVIDED, FURTHER, That the department shall have until April 1, 1975, to approve or disapprove an application involving forest practices allowed to continue to April 1, 1975, under the provisions of subsection (2) of this section. Upon receipt of any notification or any satisfactorily completed application the department shall in any event no later than two business days after such receipt transmit a copy to the departments of ecology and fish and wildlife, and to the county, city, or town in whose jurisdiction the forest practice is to be

commenced. Any comments by such agencies shall be directed to the department of natural resources.

(6) For those forest practices regulated by the board and the department, if the county, city, or town believes that an application is inconsistent with this chapter, the forest practices regulations, or any local authority consistent with RCW 76.09.240 as now or hereafter amended, it may so notify the department and the applicant, specifying its objections.

(7) For those forest practices regulated by the board and the department, the department shall not approve portions of applications to which a county, city, or town objects if:

(a) The department receives written notice from the county, city, or town of such objections within fourteen business days from the time of transmittal of the application to the county, city, or town, or one day before the department acts on the application, whichever is later; and

(b) The objections relate to lands either:

(i) Platted after January 1, 1960, as provided in chapter 58.17 RCW; or

(ii) On lands that have or are being converted to another use.

The department shall either disapprove those portions of such application or appeal the county, city, or town objections to the appeals board. If the objections related to subparagraphs (b)(i) and (ii) of this subsection are based on local authority consistent with RCW 76.09.240 as now or hereafter amended, the department shall disapprove the application until such time as the county, city, or town consents to its approval or such disapproval is reversed on appeal. The applicant shall be a party to all department appeals of county, city, or town objections. Unless the county, city, or town either consents or has waived its rights under this subsection, the department shall not approve portions of an application affecting such lands until the minimum time for county, city, or town objections has expired.

(8) For those forest practices regulated by the board and the department, in addition to any rights under the above paragraph, the county, city, or town may appeal any department approval of an application with respect to any lands within its jurisdiction. The appeals board may suspend the department's approval in whole or in part pending such appeal where there exists potential for immediate and material damage to a public resource.

(9) For those forest practices regulated by the board and the department, appeals under this section shall be made to the appeals board in the manner and time provided in RCW 76.09.220(8). In such appeals there shall be no presumption of correctness of either the county, city, or town or the department position.

(10) For those forest practices regulated by the board and the department, the department shall, within four business days notify the county, city, or town of all notifications, approvals, and disapprovals of an application affecting lands within the county, city, or town, except to the extent the county, city, or town has waived its right to such notice.

(11) For those forest practices regulated by the board and the department, a county, city, or town may waive in whole or in part its rights under this section, and may withdraw or modify any such waiver, at any time by written notice to the department.

(12) Notwithstanding subsections (2) through (5) of this section, forest practices applications or notifications are not required for exotic insect and disease control operations conducted in accordance with RCW 76.09.060(8) where eradication can reasonably be expected.

Sec. 5. RCW 76.09.060 and 1997 c 290 s 3 and 1997 c 173 s 3 are each reenacted and amended to read as follows:

The following shall apply to those forest practices administered and enforced by the department and for which the board shall promulgate regulations as provided in this chapter:

(1) The department shall prescribe the form and contents of the notification and application. The forest practices rules shall specify by whom and under what conditions the notification and application shall be signed or otherwise certified as acceptable. The application or notification shall be delivered in person to the department, sent by first class mail to the department or electronically filed in a form defined by the department. The form for electronic filing shall be readily convertible to a paper copy, which shall be available to the public pursuant to chapter 42.17 RCW. The information required may include, but is not limited to:

(a) Name and address of the forest landowner, timber owner, and operator;
(b) Description of the proposed forest practice or practices to be conducted;
(c) Legal description and tax parcel identification numbers of the land on which the forest practices are to be conducted;

(d) Planimetric and topographic maps showing location and size of all lakes and streams and other public waters in and immediately adjacent to the operating area and showing all existing and proposed roads and major tractor roads;

(e) Description of the silvicultural, harvesting, or other forest practice methods to be used, including the type of equipment to be used and materials to be applied;

(f) Proposed plan for reforestation and for any revegetation necessary to reduce erosion potential from roadsides and yarding roads, as required by the forest practices rules;

(g) Soil, geological, and hydrological data with respect to forest practices;

(h) The expected dates of commencement and completion of all forest practices specified in the application;

(i) Provisions for continuing maintenance of roads and other construction or other measures necessary to afford protection to public resources;

(j) An affirmation that the statements contained in the notification or application are true; and

(k) All necessary application or notification fees.

(2) Long range plans may be submitted to the department for review and consultation.

(3) The application for a forest practice or the notification of a Class II forest practice is subject to the three-year reforestation requirement.

(a) If the application states that any such land will be or is intended to be so converted:

(i) The reforestation requirements of this chapter and of the forest practices rules shall not apply if the land is in fact so converted unless applicable alternatives or limitations are provided in forest practices rules issued under RCW 76.09.070 as now or hereafter amended;

(ii) Completion of such forest practice operations shall be deemed conversion of the lands to another use for purposes of chapters 84.33 and 84.34 RCW unless the conversion is to a use permitted under a current use tax agreement permitted under chapter 84.34 RCW;

(iii) The forest practices described in the application are subject to applicable county, city, town, and regional governmental authority permitted under RCW 76.09.240 as now or hereafter amended as well as the forest practices rules.

(b) Except as provided elsewhere in this section, if the application or notification does not state that any land covered by the application or notification will be or is intended to be so converted:

(i) For six years after the date of the application the county, city, town, and regional governmental entities shall deny any or all applications for permits or approvals, including building permits and subdivision approvals, relating to nonforestry uses of land subject to the application;

(A) The department shall submit to the local governmental entity a copy of the statement of a forest landowner's intention not to convert which shall represent a recognition by the landowner that the six-year moratorium shall be imposed and shall preclude the landowner's ability to obtain development permits while the moratorium is in place. This statement shall be filed by the local governmental entity with the county recording officer, who shall record the documents as provided in chapter 65.04 RCW, except that lands designated as forest lands of long-term commercial significance under chapter 36.70A RCW shall not be recorded due to the low likelihood of conversion. Not recording the statement of a forest landowner's conversion intention shall not be construed to mean the moratorium is not in effect.

(B) The department shall collect the recording fee and reimburse the local governmental entity for the cost of recording the application.

(C) When harvesting takes place without an application, the local governmental entity shall impose the six-year moratorium provided in (b)(i) of this subsection from the date the unpermitted harvesting was discovered by the department or the local governmental entity.

(D) The local governmental entity shall develop a process for lifting the six-year moratorium, which shall include public notification, and procedures for appeals and public hearings.

(E) The local governmental entity may develop an administrative process for lifting or waiving the six-year moratorium for the purposes of constructing a single-family residence or outbuildings, or both, on a legal lot and building site. Lifting or waiving of the six-year moratorium is subject to compliance with all local ordinances.

(F) The six-year moratorium shall not be imposed on a forest practices application that contains a conversion option harvest plan approved by the local governmental entity unless the forest practice was not in compliance with the approved forest practice permit. Where not in compliance with the conversion option harvest plan, the six-year moratorium shall be imposed from the date the application was approved by the department or the local governmental entity;

(ii) Failure to comply with the reforestation requirements contained in any final order or decision shall constitute a removal of designation under the provisions of RCW 84.33.140, and a change of use under the provisions of RCW

84.34.080, and, if applicable, shall subject such lands to the payments and/or penalties resulting from such removals or changes; and

(iii) Conversion to a use other than commercial forest product operations within six years after approval of the forest practices without the consent of the county, city, or town shall constitute a violation of each of the county, municipal city, town, and regional authorities to which the forest practice operations would have been subject if the application had so stated.

(c) The application or notification shall be signed by the forest landowner and accompanied by a statement signed by the forest landowner indicating his or her intent with respect to conversion and acknowledging that he or she is familiar with the effects of this subsection.

(4) Whenever an approved application authorizes a forest practice which, because of soil condition, proximity to a water course or other unusual factor, has a potential for causing material damage to a public resource, as determined by the department, the applicant shall, when requested on the approved application, notify the department two days before the commencement of actual operations.

(5) Before the operator commences any forest practice in a manner or to an extent significantly different from that described in a previously approved application or notification, there shall be submitted to the department a new application or notification form in the manner set forth in this section.

(6) Except as provided in RCW 76.09.350(4), the notification to or the approval given by the department to an application to conduct a forest practice shall be effective for a term of two years from the date of approval or notification and shall not be renewed unless a new application is filed and approved or a new notification has been filed. At the option of the applicant, an application or notification may be submitted to cover a single forest practice or a number of forest practices within reasonable geographic or political boundaries as specified by the department. An application or notification that covers more than one forest practice may have an effective term of more than two years. The board shall adopt rules that establish standards and procedures for approving an application or notification that has an effective term of more than two years. Such rules shall include extended time periods for application or notification approval or disapproval. On an approved application with a term of more than two years, the applicant shall inform the department before commencing operations.

(7) Notwithstanding any other provision of this section, no prior application or notification shall be required for any emergency forest practice necessitated by fire, flood, windstorm, earthquake, or other emergency as defined by the board, but the operator shall submit an application or notification, whichever is applicable, to the department within forty-eight hours after commencement of such practice or as required by local regulations.

(8) Forest practices applications or notifications are not required for forest practices conducted to control exotic forest insect or disease outbreaks, when conducted by or under the direction of the department of agriculture in carrying out an order of the governor or director of the department of agriculture to implement pest control measures as authorized under chapter 17.24 RCW, and are not required when conducted by or under the direction of the department in

carrying out emergency measures under a forest health emergency declaration by the commissioner of public lands as provided in section 3 of this act.

(a) For the purposes of this subsection, exotic forest insect or disease has the same meaning as defined in RCW 76.06.020.

(b) In order to minimize adverse impacts to public resources, control measures must be based on integrated pest management, as defined in RCW 17.15.010, and must follow forest practices rules relating to road construction and maintenance, timber harvest, and forest chemicals, to the extent possible without compromising control objectives.

(c) Agencies conducting or directing control efforts must provide advance notice to the appropriate regulatory staff of the department of the operations that would be subject to exemption from forest practices application or notification requirements.

(d) When the appropriate regulatory staff of the department are notified under (c) of this subsection, they must consult with the landowner, interested agencies, and affected tribes, and assist the notifying agencies in the development of integrated pest management plans that comply with forest practices rules as required under (b) of this subsection.

(e) Nothing under this subsection relieves agencies conducting or directing control efforts from requirements of the federal clean water act as administered by the department of ecology under RCW 90.48.260.

(f) Forest lands where trees have been cut as part of an exotic forest insect or disease control effort under this subsection are subject to reforestation requirements under RCW 76.09.070.

(g) The exemption from obtaining approved forest practices applications or notifications does not apply to forest practices conducted after the governor, the director of the department of agriculture, or the commissioner of public lands have declared that an emergency no longer exists because control objectives have been met, that there is no longer an imminent threat, or that there is no longer a good likelihood of control.

Sec. 6. RCW 17.24.171 and 1991 c 257 s 21 are each amended to read as follows:

(1) If the director determines that there exists an imminent danger of an infestation of plant pests or plant diseases that seriously endangers the agricultural or horticultural industries of the state, or that seriously threatens life, health, ~~((or))~~ economic well-being, or the environment, the director shall request the governor to order emergency measures to control the pests or plant diseases under RCW 43.06.010~~((+4))~~ (13). The director's findings shall contain an evaluation of the affect of the emergency measures on public health.

(2) If an emergency is declared pursuant to RCW 43.06.010~~((+4))~~ (13), the director may appoint a committee to advise the governor through the director and to review emergency measures necessary under the authority of RCW 43.06.010~~((+4))~~ (13) and this section and make subsequent recommendations to the governor. The committee shall include representatives of the agricultural industries, state and local government, public health interests, technical service providers, and environmental organizations.

(3) Upon the order of the governor of the use of emergency measures, the director is authorized to implement the emergency measures to prevent, control, or eradicate plant pests or plant diseases that are the subject of the emergency

order. Such measures, after thorough evaluation of all other alternatives, may include the aerial application of pesticides.

(4) Upon the order of the governor of the use of emergency measures, the director is authorized to enter into agreements with individuals ~~((or))~~, companies, or ~~((both))~~ agencies, to accomplish the prevention, control, or eradication of plant pests or plant diseases, notwithstanding the provisions of chapter 15.58 or 17.21 RCW, or any other statute.

(5) The director shall continually evaluate the emergency measures taken and report to the governor at intervals of not less than ten days. The director shall immediately advise the governor if he or she finds that the emergency no longer exists or if certain emergency measures should be discontinued.

NEW SECTION. Sec. 7. The legislature finds that since 1995 large numbers of oak and tanoak trees have been dying in the coastal counties of California. The legislature also finds that the disease causing the tree loss, which is commonly referred to as sudden oak death syndrome, has, as of the effective date of this act, been confirmed in twelve California counties, and one Oregon county. The legislature also finds that in addition to affecting several species of oak, this disease has been confirmed to affect several plant species common in Washington's forests, including Douglas Fir, big leaf maple, huckleberry, rhododendron, madrone, and manzanita. The legislature recognizes that the state of California and the United States department of agriculture have adopted restrictions on the movement of articles that may host the disease, and the state of Oregon and the Canadian government have adopted restrictions on the importation of potential host articles. The legislature finds that an introduction of sudden oak death syndrome into Washington could cause potential damage to the state's forest health, leading to both economic and ecological losses.

NEW SECTION. Sec. 8. A new section is added to chapter 17.24 RCW to read as follows:

The department and the department of natural resources shall coordinate their sudden oak death syndrome response efforts with other plant pest agencies and private organizations to exchange information, monitor the confirmed incidences of the disease, and take action as appropriate under existing plant pest control authorities to prevent the introduction of the disease into Washington and to control or eradicate the disease if it is determined to be present in the state.

Passed by the Senate April 23, 2003.

Passed by the House April 16, 2003.

Approved by the Governor May 14, 2003.

Filed in Office of Secretary of State May 14, 2003.

CHAPTER 315

[House Bill 2063]

TIMBER PURCHASES—REPORTS

AN ACT Relating to extending the expiration date for reporting requirements on timber purchases; amending RCW 84.33.088; and providing an expiration date.

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

Sec. 1. RCW 84.33.088 and 2001 c 320 s 16 are each amended to read as follows:

(1) A purchaser of privately owned timber in an amount in excess of two hundred thousand board feet in a voluntary sale made in the ordinary course of business shall, on or before the last day of the month following the purchase of the timber, report the particulars of the purchase to the department.

(2) The report required in subsection (1) of this section shall contain all information relevant to the value of the timber purchased including, but not limited to, the following, as applicable: Purchaser's name and address, sale date, termination date in sale agreement, total sale price, total acreage involved in the sale, net volume of timber purchased, legal description of the area involved in the sale, road construction or improvements required or completed, timber cruise data, and timber thinning data. A report may be submitted in any reasonable form or, at the purchaser's option, by submitting relevant excerpts of the timber sales contract. A purchaser may comply by submitting the information in the following form:

- Purchaser's name:
- Purchaser's address:
- Sale date:
- Termination date:
- Total sale price:
- Total acreage involved:
- Net volume of timber purchased:
- Legal description of sale area:
- Property improvements:
- Timber cruise data:
- Timber thinning data:

(3) A purchaser of privately owned timber involved in a purchase described in subsection (1) of this section who fails to report a purchase as required may be liable for a penalty of two hundred fifty dollars for each failure to report, as determined by the department.

(4) This section expires July 1, (~~2004~~) 2007.

Passed by the House March 13, 2003.

Passed by the Senate April 10, 2003.

Approved by the Governor May 14, 2003.

Filed in Office of Secretary of State May 14, 2003.

CHAPTER 316

[Senate Bill 5176]

WILDLAND FIRE FIGHTING TRAINING

AN ACT Relating to providing wildland fire fighting training; and reenacting and amending RCW 43.43.934.

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

Sec. 1. RCW 43.43.934 and 1999 c 117 s 1 and 1999 c 24 s 3 are each reenacted and amended to read as follows:

Except for matters relating to the statutory duties of the chief of the Washington state patrol that are to be carried out through the director of fire protection, the board shall have the responsibility of developing a comprehensive state policy regarding fire protection services. In carrying out its duties, the board shall:

(1)(a) Adopt a state fire training and education master plan that allows to the maximum feasible extent for negotiated agreements: (i) With the state board for community and technical colleges to provide academic, vocational, and field training programs for the fire service and (ii) with the higher education coordinating board and the state colleges and universities to provide instructional programs requiring advanced training, especially in command and management skills;

(b) Adopt minimum standards for each level of responsibility among personnel with fire suppression, prevention, inspection, and investigation responsibilities that assure continuing assessment of skills and are flexible enough to meet emerging technologies. With particular respect to training for fire investigations, the master plan shall encourage cross training in appropriate law enforcement skills. To meet special local needs, fire agencies may adopt more stringent requirements than those adopted by the state;

(c) Cooperate with the common schools, technical and community colleges, institutions of higher education, and any department or division of the state, or of any county or municipal corporation in establishing and maintaining instruction in fire service training and education in accordance with any act of congress and legislation enacted by the legislature in pursuance thereof and in establishing, building, and operating training and education facilities.

Industrial fire departments and private fire investigators may participate in training and education programs under this chapter for a reasonable fee established by rule;

(d) Develop and adopt a master plan for constructing, equipping, maintaining, and operating necessary fire service training and education facilities subject to the provisions of chapter 43.19 RCW;

(e) Develop and adopt a master plan for the purchase, lease, or other acquisition of real estate necessary for fire service training and education facilities in a manner provided by law; and

(f) Develop and adopt a plan with a goal of providing ~~((training at the level of))~~ fire fighter one and wildland training, as defined by the board, to all fire fighters in the state. Wildland training reimbursement will be provided if a fire protection district or a city fire department has and is fulfilling their interior attack policy or if they do not have an interior attack policy. The plan will include a reimbursement for fire protection districts and city fire departments of not less than ~~((two))~~ three dollars for every hour of fire fighter one or wildland training. The Washington state patrol shall not provide reimbursement for more than ~~((one))~~ two hundred ~~((fifty))~~ hours of fire fighter one or wildland training for each fire fighter trained.

(2) In addition to its responsibilities for fire service training, the board shall:

(a) Adopt a state fire protection master plan;

(b) Monitor fire protection in the state and develop objectives and priorities to improve fire protection for the state's citizens including: (i) The comprehensiveness of state and local inspections required by law for fire and life

safety; (ii) the level of skills and training of inspectors, as well as needs for additional training; and (iii) the efforts of local, regional, and state inspection agencies to improve coordination and reduce duplication among inspection efforts;

(c) Establish and promote state arson control programs and ensure development of local arson control programs;

(d) Provide representation for local fire protection services to the governor in state-level fire protection planning matters such as, but not limited to, hazardous materials control;

(e) Recommend to the adjutant general rules on minimum information requirements of automatic location identification for the purposes of enhanced 911 emergency service;

(f) Seek and solicit grants, gifts, bequests, devises, and matching funds for use in furthering the objectives and duties of the board, and establish procedures for administering them;

(g) Promote mutual aid and disaster planning for fire services in this state;

(h) Assure the dissemination of information concerning the amount of fire damage including that damage caused by arson, and its causes and prevention; and

(i) Implement any legislation enacted by the legislature to meet the requirements of any acts of congress that apply to this section.

(3) In carrying out its statutory duties, the board shall give particular consideration to the appropriate roles to be played by the state and by local jurisdictions with fire protection responsibilities. Any determinations on the division of responsibility shall be made in consultation with local fire officials and their representatives.

To the extent possible, the board shall encourage development of regional units along compatible geographic, population, economic, and fire risk dimensions. Such regional units may serve to: (a) Reinforce coordination among state and local activities in fire service training, reporting, inspections, and investigations; (b) identify areas of special need, particularly in smaller jurisdictions with inadequate resources; (c) assist the state in its oversight responsibilities; (d) identify funding needs and options at both the state and local levels; and (e) provide models for building local capacity in fire protection programs.

Passed by the Senate April 22, 2003.

Passed by the House April 17, 2003.

Approved by the Governor May 14, 2003.

Filed in Office of Secretary of State May 14, 2003.

CHAPTER 317

[Substitute Senate Bill 5204]

WATCHABLE WILDLIFE DECALS

AN ACT Relating to enhancing watchable wildlife activities; amending RCW 77.12.170 and 77.32.380; adding a new section to chapter 77.32 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 healthy wildlife populations significantly contribute to the economic vitality of Washington's rural areas through increased opportunities for watchable wildlife and related tourism. Travel related to watchable wildlife is one of the fastest growing segments of the travel industry. Much of this travel occurs off-season, creating jobs and providing revenue to local businesses and governments during otherwise slow periods. The watchable wildlife industry is particularly important to Washington's rural economies.

The legislature also finds that it is vital to support programs that enhance watchable wildlife activities and tourism, while also protecting the wildlife resources that attract the viewers. A revenue source must be created and directed to the watchable wildlife programs of the department of fish and wildlife to develop watchable wildlife opportunities in cooperation with other local, state, and federal agencies, and nongovernmental organizations.

NEW SECTION. Sec. 2. A new section is added to chapter 77.32 RCW to read as follows:

(1) The department may sell watchable wildlife decals. Proceeds from the sale of the decal must be deposited into the state wildlife fund created in RCW 77.12.170 and must be dedicated to the support of the department's watchable wildlife activities. The department may also use proceeds from the sale of the decal for marketing the decal and for marketing watchable wildlife activities in the state.

(2) The term "watchable wildlife activities" includes but is not limited to: Initiating partnerships with communities to jointly develop watchable wildlife projects, building infrastructure to serve wildlife viewers, assisting and training communities in conducting wildlife watching events, developing destination wildlife viewing corridors and trails, tours, maps, brochures, and travel aides, and offering grants to assist rural communities in identifying key wildlife attractions and ways to protect and promote them.

(3) The commission must adopt by rule the cost of the watchable wildlife decal. A person may, at their discretion, contribute more than the cost as set by the commission by rule for the watchable wildlife decal in order to support watchable wildlife activities. A person who purchases a watchable wildlife decal must be issued one vehicle use permit free of charge.

Sec. 3. RCW 77.12.170 and 2001 c 253 s 15 are each amended to read as follows:

(1) There is established in the state treasury the state wildlife fund which consists of moneys received from:

- (a) Rentals or concessions of the department;
- (b) The sale of real or personal property held for department purposes;
- (c) The sale of licenses, permits, tags, and stamps required by chapter 77.32 RCW and RCW 77.65.490, except annual resident adult saltwater and all shellfish licenses, which shall be deposited into the state general fund;
- (d) Fees for informational materials published by the department;
- (e) Fees for personalized vehicle license plates as provided in chapter 46.16 RCW;
- (f) Articles or wildlife sold by the director under this title;

(g) Compensation for damage to department property or wildlife losses or contributions, gifts, or grants received under RCW 77.12.320 (~~or 77.32.380~~);

(h) Excise tax on anadromous game fish collected under chapter 82.27 RCW;

(i) The sale of personal property seized by the department for fish, shellfish, or wildlife violations; (~~and~~)

(j) The department's share of revenues from auctions and raffles authorized by the commission; and

(k) The sale of watchable wildlife decals under section 2 of this act.

(2) State and county officers receiving any moneys listed in subsection (1) of this section shall deposit them in the state treasury to be credited to the state wildlife fund.

Sec. 4. RCW 77.32.380 and 2001 c 243 s 1 are each amended to read as follows:

(1) Persons who enter upon or use clearly identified department improved access facilities with a motor vehicle may be required to display a current annual fish and wildlife lands vehicle use permit on the motor vehicle while within or while using an improved access facility. An "improved access facility" is a clearly identified area specifically created for motor vehicle parking, and includes any boat launch or boat ramp associated with the parking area, but does not include the department parking facilities at the Gorge Concert Center near George, Washington. One vehicle use permit shall be issued at no charge with an initial purchase of either an annual saltwater, freshwater, combination, small game hunting, big game hunting, or trapping license, or a watchable wildlife decal, issued by the department. The annual fee for a fish and wildlife lands vehicle use permit, if purchased separately, is ten dollars. A person to whom the department has issued a vehicle use permit or who has purchased a vehicle use permit separately may purchase additional vehicle use permits from the department at a cost of five dollars per vehicle use permit. Revenue derived from the sale of fish and wildlife lands vehicle use permits shall be used solely for the stewardship and maintenance of department improved access facilities.

Youth groups may use department improved access facilities without possessing a vehicle use permit when accompanied by a vehicle use permit holder.

~~((The department may accept contributions into the state wildlife fund for the sound stewardship of fish and wildlife. Contributors shall be known as "conservation patrons" and, for contributions of twenty dollars or more, shall receive a fish and wildlife lands vehicle use permit free of charge.))~~

(2) The vehicle use permit must be displayed from the interior of the motor vehicle so that it is clearly visible from outside of the motor vehicle before entering upon or using the motor vehicle on a department improved access facility. The vehicle use permit can be transferred between two vehicles and must contain space for the vehicle license numbers of each vehicle.

(3) Failure to display the fish and wildlife lands vehicle use permit if required by this section is an infraction under chapter 7.84 RCW, and department employees are authorized to issue a notice of infraction to the registered owner of any motor vehicle entering upon or using a department improved access facility without such a vehicle use permit. The penalty for failure to clearly display the vehicle use permit is sixty-six dollars. This penalty is reduced to

thirty dollars if the registered owner provides proof to the court that he or she purchased a vehicle use permit within fifteen days after the issuance of the notice of violation.

Passed by the Senate March 16, 2003.

Passed by the House April 10, 2003.

Approved by the Governor May 14, 2003.

Filed in Office of Secretary of State May 14, 2003.

CHAPTER 318

[Second Substitute House Bill 1725]

CATCH RECORD CARDS

AN ACT Relating to catch record cards; amending RCW 77.32.430 and 77.32.256; and providing an effective date.

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

Sec. 1. RCW 77.32.430 and 1998 c 191 s 5 are each amended to read as follows:

(1) Catch record cards necessary for proper management of the state's food fish and game fish species and shellfish resources shall be administered under rules adopted by the commission and issued at no charge for the initial catch record card and ten dollars for each subsequent catch record card. A duplicate catch record costs ten dollars.

(2) Catch record cards issued with affixed temporary short-term charter stamp licenses are not subject to the ten-dollar charge as provided in this section. Charter boat or guide operators issuing temporary short-term charter stamp licenses shall affix the stamp to each catch record card issued before fishing commences. Catch record cards issued with a temporary short-term charter stamp are valid for two consecutive days.

(3) The department shall include provisions for recording marked and unmarked salmon in catch record cards issued after March 31, 2004.

(4) The funds received from the sale of catch record cards must be deposited into the wildlife fund.

Sec. 2. RCW 77.32.256 and 2002 c 222 s 1 are each amended to read as follows:

The director shall by rule establish the conditions and fees for issuance of duplicate licenses, rebates, permits, tags, and stamps required by this chapter. The fee for duplicate licenses, rebates, permits, tags, and stamps, except catch record cards, may not exceed the actual cost to the department for issuing the duplicate.

NEW SECTION. Sec. 3. This act takes effect April 1, 2004.

Passed by the House April 23, 2003.

Passed by the Senate April 11, 2003.

Approved by the Governor May 14, 2003.

Filed in Office of Secretary of State May 14, 2003.

CHAPTER 319

[House Bill 2113]

HIGHER EDUCATION—TUITION REFUNDS

AN ACT Relating to refunds of federal financial aid to students who withdraw from institutions of higher education before the end of a quarter or semester; and amending RCW 28B.15.600.

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

Sec. 1. RCW 28B.15.600 and 1995 c 36 s 1 are each amended to read as follows:

(1) The governing boards of the state universities, the regional universities, and The Evergreen State College may refund or cancel in full the tuition and services and activities fees if the student withdraws from a university or college course or program prior to the sixth day of instruction of the quarter or semester for which the fees have been paid or are due. If the student withdraws on or after the sixth day of instruction, the governing boards may refund or cancel up to one-half of the fees, provided such withdrawal occurs within the first thirty calendar days following the beginning of instruction. However, if a different policy is required by federal law in order for the institution of higher education to maintain eligibility for federal funding of programs, the governing board may adopt a refund policy that meets the minimum requirements of the federal law, and the policy may treat all students attending the institution in the same manner. Additionally, if federal law provides that students who receive federal financial aid must return a larger amount to the federal government than that refunded by the institution, the governing board may adopt a refund policy that uses the formula used to calculate the amount returned to the federal government, and the policy may treat all students attending the institution in the same manner.

(2) The governing boards of the respective universities and college may adopt rules for the refund of tuition and fees for courses or programs that begin after the start of the regular quarter or semester.

(3) The governing boards (~~may adopt rules to comply with RCW 28B.15.623 and~~) may extend the refund or cancellation period for students who withdraw for medical reasons or who are called into the military service of the United States and may refund other fees pursuant to such rules as they may prescribe.

Passed by the House March 13, 2003.

Passed by the Senate April 17, 2003.

Approved by the Governor May 14, 2003.

Filed in Office of Secretary of State May 14, 2003.

CHAPTER 320

[Substitute House Bill 1495]

LIQUOR LICENSE SUSPENSIONS—INVESTIGATIONS

AN ACT Relating to the summary suspension of a liquor license pending revocation proceedings; and amending RCW 66.08.150.

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

Sec. 1. RCW 66.08.150 and 1989 c 175 s 122 are each amended to read as follows:

The action, order, or decision of the board as to any denial of an application for the reissuance of a permit or license or as to any revocation, suspension, or modification of any permit or license shall be an adjudicative proceeding and subject to the applicable provisions of chapter 34.05 RCW.

(1) An opportunity for a hearing may be provided an applicant for the reissuance of a permit or license prior to the disposition of the application, and if no such opportunity for a prior hearing is provided then an opportunity for a hearing to reconsider the application must be provided the applicant.

(2) An opportunity for a hearing must be provided a permittee or licensee prior to a revocation or modification of any permit or license and, except as provided in subsection (4) of this section, prior to the suspension of any permit or license.

(3) No hearing shall be required until demanded by the applicant, permittee, or licensee.

(4) The board may summarily suspend a license or permit for a period of up to ~~((thirty))~~ one hundred eighty days without a prior hearing if it finds that public health, safety, or welfare imperatively require emergency action, and incorporates a finding to that effect in its order; and proceedings for revocation or other action must be promptly instituted and determined. The board's enforcement division shall complete a preliminary staff investigation of the violation before requesting an emergency suspension by the board.

Passed by the House April 22, 2003.

Passed by the Senate April 15, 2003.

Approved by the Governor May 14, 2003.

Filed in Office of Secretary of State May 14, 2003.

CHAPTER 321

[Engrossed Substitute House Bill 1933]

SHORELINE MANAGEMENT

AN ACT Relating to the integration of shoreline management policies with the growth management act; amending RCW 90.58.030, 90.58.090, 90.58.190, and 36.70A.480; and creating a new section.

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

NEW SECTION. Sec. I. (1) The legislature finds that the final decision and order in *Everett Shorelines Coalition v. City of Everett* and *Washington State Department Of Ecology*, Case No. 02-3-0009c, issued on January 9, 2003, by the central Puget Sound growth management hearings board was a case of first impression interpreting the addition of the shoreline management act into the growth management act, and that the board considered the appeal and issued its final order and decision without the benefit of shorelines guidelines to provide guidance on the implementation of the shoreline management act and the adoption of shoreline master programs.

(2) This act is intended to affirm the legislature's intent that:

(a) The shoreline management act be read, interpreted, applied, and implemented as a whole consistent with decisions of the shoreline hearings board and Washington courts prior to the decision of the central Puget Sound growth management hearings board in *Everett Shorelines Coalition v. City of Everett* and *Washington State Department of Ecology*;

(b) The goals of the growth management act, including the goals and policies of the shoreline management act, set forth in RCW 36.70A.020 and included in RCW 36.70A.020 by RCW 36.70A.480, continue to be listed without an order of priority; and

(c) Shorelines of statewide significance may include critical areas as defined by RCW 36.70A.030(5), but that shorelines of statewide significance are not critical areas simply because they are shorelines of statewide significance.

(3) The legislature intends that critical areas within the jurisdiction of the shoreline management act shall be governed by the shoreline management act and that critical areas outside the jurisdiction of the shoreline management act shall be governed by the growth management act. The legislature further intends that the quality of information currently required by the shoreline management act to be applied to the protection of critical areas within shorelines of the state shall not be limited or changed by the provisions of the growth management act.

Sec. 2. RCW 90.58.030 and 2002 c 230 s 2 are each amended to read as follows:

As used in this chapter, unless the context otherwise requires, the following definitions and concepts apply:

(1) Administration:

(a) "Department" means the department of ecology;

(b) "Director" means the director of the department of ecology;

(c) "Local government" means any county, incorporated city, or town which contains within its boundaries any lands or waters subject to this chapter;

(d) "Person" means an individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of the state or local governmental unit however designated;

(e) "Hearing board" means the shoreline hearings board established by this chapter.

(2) Geographical:

(a) "Extreme low tide" means the lowest line on the land reached by a receding tide;

(b) "Ordinary high water mark" on all lakes, streams, and tidal water is that mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the department: PROVIDED, That in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean higher high tide and the ordinary high water mark adjoining fresh water shall be the line of mean high water;

(c) "Shorelines of the state" are the total of all "shorelines" and "shorelines of statewide significance" within the state;

(d) "Shorelines" means all of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them; except (i) shorelines of statewide significance; (ii) shorelines on segments of streams upstream of a point where the mean annual flow is twenty cubic feet per second or less and the wetlands associated with such upstream segments; and

(iii) shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes;

(e) "Shorelines of statewide significance" means the following shorelines of the state:

(i) The area between the ordinary high water mark and the western boundary of the state from Cape Disappointment on the south to Cape Flattery on the north, including harbors, bays, estuaries, and inlets;

(ii) Those areas of Puget Sound and adjacent salt waters and the Strait of Juan de Fuca between the ordinary high water mark and the line of extreme low tide as follows:

(A) Nisqually Delta--from DeWolf Bight to Tatsolo Point,

(B) Birch Bay--from Point Whitehorn to Birch Point,

(C) Hood Canal--from Tala Point to Foulweather Bluff,

(D) Skagit Bay and adjacent area--from Brown Point to Yokeko Point, and

(E) Padilla Bay--from March Point to William Point;

(iii) Those areas of Puget Sound and the Strait of Juan de Fuca and adjacent salt waters north to the Canadian line and lying seaward from the line of extreme low tide;

(iv) Those lakes, whether natural, artificial, or a combination thereof, with a surface acreage of one thousand acres or more measured at the ordinary high water mark;

(v) Those natural rivers or segments thereof as follows:

(A) Any west of the crest of the Cascade range downstream of a point where the mean annual flow is measured at one thousand cubic feet per second or more,

(B) Any east of the crest of the Cascade range downstream of a point where the annual flow is measured at two hundred cubic feet per second or more, or those portions of rivers east of the crest of the Cascade range downstream from the first three hundred square miles of drainage area, whichever is longer;

(vi) Those shorelands associated with (i), (ii), (iv), and (v) of this subsection (2)(e);

(f) "Shorelands" or "shoreland areas" means those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward two hundred feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of this chapter; the same to be designated as to location by the department of ecology.

(i) Any county or city may determine that portion of a one-hundred-year-flood plain to be included in its master program as long as such portion includes, as a minimum, the floodway and the adjacent land extending landward two hundred feet therefrom.

(ii) Any city or county may also include in its master program land necessary for buffers for critical areas, as defined in chapter 36.70A RCW, that occur within shorelines of the state, provided that forest practices regulated under chapter 76.09 RCW, except conversions to nonforest land use, on lands subject to the provisions of this subsection (2)(f)(ii) are not subject to additional regulations under this chapter;

(g) "Floodway" means those portions of the area of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are

carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition. The floodway shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state;

(h) "Wetlands" means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas to mitigate the conversion of wetlands.

(3) Procedural terms:

(a) "Guidelines" means those standards adopted to implement the policy of this chapter for regulation of use of the shorelines of the state prior to adoption of master programs. Such standards shall also provide criteria to local governments and the department in developing master programs;

(b) "Master program" shall mean the comprehensive use plan for a described area, and the use regulations together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.020;

(c) "State master program" is the cumulative total of all master programs approved or adopted by the department of ecology;

(d) "Development" means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to this chapter at any state of water level;

(e) "Substantial development" shall mean any development of which the total cost or fair market value exceeds five thousand dollars, or any development which materially interferes with the normal public use of the water or shorelines of the state. The dollar threshold established in this subsection (3)(e) must be adjusted for inflation by the office of financial management every five years, beginning July 1, 2007, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the bureau of labor and statistics, United States department of labor. The office of financial management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the Washington State Register at least one

month before the new dollar threshold is to take effect. The following shall not be considered substantial developments for the purpose of this chapter:

(i) Normal maintenance or repair of existing structures or developments, including damage by accident, fire, or elements;

(ii) Construction of the normal protective bulkhead common to single family residences;

(iii) Emergency construction necessary to protect property from damage by the elements;

(iv) Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels. A feedlot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the shorelands by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities. A feedlot shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations;

(v) Construction or modification of navigational aids such as channel markers and anchor buoys;

(vi) Construction on shorelands by an owner, lessee, or contract purchaser of a single family residence for his own use or for the use of his or her family, which residence does not exceed a height of thirty-five feet above average grade level and which meets all requirements of the state agency or local government having jurisdiction thereof, other than requirements imposed pursuant to this chapter;

(vii) Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of single and multiple family residences. This exception applies if either: (A) In salt waters, the fair market value of the dock does not exceed two thousand five hundred dollars; or (B) in fresh waters, the fair market value of the dock does not exceed ten thousand dollars, but if subsequent construction having a fair market value exceeding two thousand five hundred dollars occurs within five years of completion of the prior construction, the subsequent construction shall be considered a substantial development for the purpose of this chapter;

(viii) Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored ground water for the irrigation of lands;

(ix) The marking of property lines or corners on state owned lands, when such marking does not significantly interfere with normal public use of the surface of the water;

(x) Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975, which were created, developed, or utilized primarily as a part of an agricultural drainage or diking system;

(xi) Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this chapter, if:

(A) The activity does not interfere with the normal public use of the surface waters;

(B) The activity will have no significant adverse impact on the environment including, but not limited to, fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;

(C) The activity does not involve the installation of a structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity;

(D) A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the local jurisdiction to ensure that the site is restored to preexisting conditions; and

(E) The activity is not subject to the permit requirements of RCW 90.58.550;

(xii) The process of removing or controlling an aquatic noxious weed, as defined in RCW 17.26.020, through the use of an herbicide or other treatment methods applicable to weed control that are recommended by a final environmental impact statement published by the department of agriculture or the department jointly with other state agencies under chapter 43.21C RCW.

Sec. 3. RCW 90.58.090 and 1997 c 429 s 50 are each amended to read as follows:

(1) A master program, segment of a master program, or an amendment to a master program shall become effective when approved by the department. Within the time period provided in RCW 90.58.080, each local government shall have submitted a master program, either totally or by segments, for all shorelines of the state within its jurisdiction to the department for review and approval.

(2) Upon receipt of a proposed master program or amendment, the department shall:

(a) Provide notice to and opportunity for written comment by all interested parties of record as a part of the local government review process for the proposal and to all persons, groups, and agencies that have requested in writing notice of proposed master programs or amendments generally or for a specific area, subject matter, or issue. The comment period shall be at least thirty days, unless the department determines that the level of complexity or controversy involved supports a shorter period;

(b) In the department's discretion, conduct a public hearing during the thirty-day comment period in the jurisdiction proposing the master program or amendment;

(c) Within fifteen days after the close of public comment, request the local government to review the issues identified by the public, interested parties, groups, and agencies and provide a written response as to how the proposal addresses the identified issues;

(d) Within thirty days after receipt of the local government response pursuant to (c) of this subsection, make written findings and conclusions regarding the consistency of the proposal with the policy of RCW 90.58.020 and the applicable guidelines, provide a response to the issues identified in (c) of this

subsection, and either approve the proposal as submitted, recommend specific changes necessary to make the proposal approvable, or deny approval of the proposal in those instances where no alteration of the proposal appears likely to be consistent with the policy of RCW 90.58.020 and the applicable guidelines. The written findings and conclusions shall be provided to the local government, all interested persons, parties, groups, and agencies of record on the proposal;

(e) If the department recommends changes to the proposed master program or amendment, within thirty days after the department mails the written findings and conclusions to the local government, the local government may:

(i) Agree to the proposed changes. The receipt by the department of the written notice of agreement constitutes final action by the department approving the amendment; or

(ii) Submit an alternative proposal. If, in the opinion of the department, the alternative is consistent with the purpose and intent of the changes originally submitted by the department and with this chapter it shall approve the changes and provide written notice to all recipients of the written findings and conclusions. If the department determines the proposal is not consistent with the purpose and intent of the changes proposed by the department, the department may resubmit the proposal for public and agency review pursuant to this section or reject the proposal.

(3) The department shall approve the segment of a master program relating to shorelines unless it determines that the submitted segments are not consistent with the policy of RCW 90.58.020 and the applicable guidelines.

(4) The department shall approve the segment of a master program relating to critical areas as defined by RCW 36.70A.030(5) provided the master program segment is consistent with RCW 90.58.020 and applicable shoreline guidelines, and if the segment provides a level of protection of critical areas at least equal to that provided by the local government's critical areas ordinances adopted and thereafter amended pursuant to RCW 36.70A.060(2).

(5) The department shall approve those segments of the master program relating to shorelines of statewide significance only after determining the program provides the optimum implementation of the policy of this chapter to satisfy the statewide interest. If the department does not approve a segment of a local government master program relating to a shoreline of statewide significance, the department may develop and by rule adopt an alternative to the local government's proposal.

~~((5))~~ (6) In the event a local government has not complied with the requirements of RCW 90.58.070 it may thereafter upon written notice to the department elect to adopt a master program for the shorelines within its jurisdiction, in which event it shall comply with the provisions established by this chapter for the adoption of a master program for such shorelines.

Upon approval of such master program by the department it shall supersede such master program as may have been adopted by the department for such shorelines.

~~((6))~~ (7) A master program or amendment to a master program takes effect when and in such form as approved or adopted by the department. Shoreline master programs that were adopted by the department prior to July 22, 1995, in accordance with the provisions of this section then in effect, shall be deemed approved by the department in accordance with the provisions of this section

that became effective on that date. The department shall maintain a record of each master program, the action taken on any proposal for adoption or amendment of the master program, and any appeal of the department's action. The department's approved document of record constitutes the official master program.

Sec. 4. RCW 90.58.190 and 1995 c 347 s 311 are each amended to read as follows:

(1) The appeal of the department's decision to adopt a master program or amendment pursuant to RCW 90.58.070(2) or 90.58.090(~~((4))~~) (5) is governed by RCW 34.05.510 through 34.05.598.

(2)(a) The department's decision to approve, reject, or modify a proposed master program or amendment adopted by a local government planning under RCW 36.70A.040 shall be appealed to the growth management hearings board with jurisdiction over the local government. The appeal shall be initiated by filing a petition as provided in RCW 36.70A.250 through 36.70A.320.

(b) If the appeal to the growth management hearings board concerns shorelines, the growth management hearings board shall review the proposed master program or amendment solely for compliance with the requirements of this chapter (~~and chapter 36.70A RCW~~), the policy of RCW 90.58.020 and the applicable guidelines, the internal consistency provisions of RCW 36.70A.070, 36.70A.040(4), 35.63.125, and 35A.63.105, and chapter 43.21C RCW as it relates to the adoption of master programs and amendments under chapter 90.58 RCW.

(c) If the appeal to the growth management hearings board concerns a shoreline of statewide significance, the board shall uphold the decision by the department unless the board, by clear and convincing evidence, determines that the decision of the department is inconsistent with the policy of RCW 90.58.020 and the applicable guidelines.

(d) The appellant has the burden of proof in all appeals to the growth management hearings board under this subsection.

(e) Any party aggrieved by a final decision of a growth management hearings board under this subsection may appeal the decision to superior court as provided in RCW 36.70A.300.

(3)(a) The department's decision to approve, reject, or modify a proposed master program or master program amendment by a local government not planning under RCW 36.70A.040 shall be appealed to the shorelines hearings board by filing a petition within thirty days of the date of the department's written notice to the local government of the department's decision to approve, reject, or modify a proposed master program or master program amendment as provided in RCW 90.58.090(2).

(b) In an appeal relating to shorelines, the shorelines hearings board shall review the proposed master program or master program amendment and, after full consideration of the presentations of the local government and the department, shall determine the validity of the local government's master program or amendment in light of the policy of RCW 90.58.020 and the applicable guidelines.

(c) In an appeal relating to shorelines of statewide significance, the shorelines hearings board shall uphold the decision by the department unless the board determines, by clear and convincing evidence that the decision of the

department is inconsistent with the policy of RCW 90.58.020 and the applicable guidelines.

(d) Review by the shorelines hearings board shall be considered an adjudicative proceeding under chapter 34.05 RCW, the Administrative Procedure Act. The aggrieved local government shall have the burden of proof in all such reviews.

(e) Whenever possible, the review by the shorelines bearings board shall be heard within the county where the land subject to the proposed master program or master program amendment is primarily located. The department and any local government aggrieved by a final decision of the hearings board may appeal the decision to superior court as provided in chapter 34.05 RCW.

(4) A master program amendment shall become effective after the approval of the department or after the decision of the shorelines hearings board to uphold the master program or master program amendment, provided that the board may remand the master program or master program adjustment to the local government or the department for modification prior to the final adoption of the master program or master program amendment.

Sec. 5. RCW 36.70A.480 and 1995 c 347 s 104 are each amended to read as follows:

(1) For shorelines of the state, the goals and policies of the shoreline management act as set forth in RCW 90.58.020 are added as one of the goals of this chapter as set forth in RCW 36.70A.020 without creating an order of priority among the fourteen goals. The goals and policies of a shoreline master program for a county or city approved under chapter 90.58 RCW shall be considered an element of the county or city's comprehensive plan. All other portions of the shoreline master program for a county or city adopted under chapter 90.58 RCW, including use regulations, shall be considered a part of the county or city's development regulations.

(2) The shoreline master program shall be adopted pursuant to the procedures of chapter 90.58 RCW rather than the goals, policies, and procedures set forth in this chapter for the adoption of a comprehensive plan or development regulations.

(3) The policies, goals, and provisions of chapter 90.58 RCW and applicable guidelines shall be the sole basis for determining compliance of a shoreline master program with this chapter except as the shoreline master program is required to comply with the internal consistency provisions of RCW 36.70A.070, 36.70A.040(4), 35.63.125, and 35A.63.105.

(a) As of the date the department of ecology approves a local government's shoreline master program adopted under applicable shoreline guidelines, the protection of critical areas as defined by RCW 36.70A.030(5) within shorelines of the state shall be accomplished only through the local government's shoreline master program and shall not be subject to the procedural and substantive requirements of this chapter, except as provided in subsection (6) of this section.

(b) Critical areas within shorelines of the state that have been identified as meeting the definition of critical areas as defined by RCW 36.70A.030(5), and that are subject to a shoreline master program adopted under applicable shoreline guidelines shall not be subject to the procedural and substantive requirements of this chapter, except as provided in subsection (6) of this section. Nothing in this

act is intended to affect whether or to what extent agricultural activities, as defined in RCW 90.58.065, are subject to chapter 36.70A RCW.

(c) The provisions of RCW 36.70A.172 shall not apply to the adoption or subsequent amendment of a local government's shoreline master program and shall not be used to determine compliance of a local government's shoreline master program with chapter 90.58 RCW and applicable guidelines. Nothing in this section, however, is intended to limit or change the quality of information to be applied in protecting critical areas within shorelines of the state, as required by chapter 90.58 RCW and applicable guidelines.

(4) Shoreline master programs shall provide a level of protection to critical areas located within shorelines of the state that is at least equal to the level of protection provided to critical areas by the local government's critical area ordinances adopted and thereafter amended pursuant to RCW 36.70A.060(2).

(5) Shorelines of the state shall not be considered critical areas under this chapter except to the extent that specific areas located within shorelines of the state qualify for critical area designation based on the definition of critical areas provided by RCW 36.70A.030(5) and have been designated as such by a local government pursuant to RCW 36.70A.060(2).

(6) If a local jurisdiction's master program does not include land necessary for buffers for critical areas that occur within shorelines of the state, as authorized by RCW 90.58.030(2)(f), then the local jurisdiction shall continue to regulate those critical areas and their required buffers pursuant to RCW 36.70A.060(2).

Passed by the House April 25, 2003.

Passed by the Senate April 9, 2003.

Approved by the Governor May 15, 2003.

Filed in Office of Secretary of State May 15, 2003.

CHAPTER 322

[Engrossed Substitute Senate Bill 5586]

LEAD-BASED PAINT

AN ACT Relating to granting authority to address concerns with lead-based paint activities; adding a new chapter to Title 70 RCW; and prescribing penalties.

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

NEW SECTION. Sec. I. (1) The legislature finds that lead hazards associated with lead-based paint represent a significant and preventable environmental health problem. Lead-based paint is the most widespread of the various sources of lead exposure to the public. Census data show that one million five hundred sixty thousand homes in Washington state were built prior to 1978 when the sale of residential lead-based paint was banned. These are homes that are believed to contain some lead-based paint.

Lead negatively affects every system of the body. It is harmful to individuals of all ages and is especially harmful to children, fetuses, and adults of childbearing age. The effects of lead on a child's cognitive, behavioral, and developmental abilities may necessitate large expenditures of public funds for health care and special education. The irreversible damage to children and subsequent expenditures could be avoided if exposure to lead is reduced.

(2) The federal government regulates lead poisoning and lead hazard reduction through:

- (a)(i) The lead-based paint poisoning prevention act;
- (ii) The lead contamination control act;
- (iii) The safe drinking water act;
- (iv) The resource conservation and recovery act of 1976; and
- (v) The residential lead-based paint hazard reduction act of 1992; and

(b) Implementing regulations of:

- (i) The environmental protection agency;
- (ii) The department of housing and urban development;
- (iii) The occupational safety and health administration; and
- (iv) The centers for disease control and prevention.

(3) In 1992, congress passed the federal residential lead-based paint hazard reduction act, which allows states to provide for the accreditation of lead-based paint activities programs, the certification of persons completing such training programs, and the licensing of lead-based paint activities contractors under standards developed by the United States environmental protection agency.

(4) The legislature recognizes the state's need to protect the public from exposure to lead hazards. A qualified and properly trained work force is needed to assist in the prevention, detection, reduction, and elimination of hazards associated with lead-based paint. The purpose of training workers, supervisors, inspectors, risk assessors, and project designers engaged in lead-based paint activities is to protect building occupants, particularly children ages six years and younger from potential lead-based paint hazards and exposures both during and after lead-based paint activities. Qualified and properly trained individuals and firms will help to ensure lead-based paint activities are conducted in a way that protects the health of the citizens of Washington state and safeguards the environment. The state lead-based paint activities program requires that all lead-based paint activities be performed by certified personnel trained by an accredited program, and that all lead-based paint activities meet minimum work practice standards established by the department of community, trade, and economic development. Therefore, the lead-based paint activities accreditation, training, and certification program shall be established in accordance with this chapter. The lead-based paint activities accreditation, training, and certification program shall be administered by the department of community, trade, and economic development and shall be used as a means to assure the protection of the general public from exposure to lead hazards.

(5) For the welfare of the people of the state of Washington, this chapter establishes a lead-based paint activities program within the department of community, trade, and economic development to protect the general public from exposure to lead hazards and to ensure the availability of a trained and qualified work force to identify and address lead-based paint hazards. The legislature recognizes the department of community, trade, and economic development is not a regulatory agency and may delegate enforcement responsibilities under this act to local governments or private entities.

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

(1) "Abatement" means any measure or set of measures designed to permanently eliminate lead-based paint hazards.

(a) Abatement includes, but is not limited to:

(i) The removal of paint and dust, the permanent enclosure or encapsulation of lead-based paint, the replacement of painted surfaces or fixtures, or the removal or permanent covering of soil, when lead-based paint hazards are present in such paint, dust, or soil; and

(ii) All preparation, cleanup, disposal, and postabatement clearance testing activities associated with such measures.

(b) Specifically, abatement includes, but is not limited to:

(i) Projects for which there is a written contract or other documentation, which provides that an individual or firm will be conducting activities in or to a residential dwelling or child-occupied facility that:

(A) Shall result in the permanent elimination of lead-based paint hazards; or

(B) Are designed to permanently eliminate lead-based paint hazards and are described in (a)(i) and (ii) of this subsection;

(ii) Projects resulting in the permanent elimination of lead-based paint hazards, conducted by certified firms or individuals, unless such projects are covered by (c) of this subsection;

(iii) Projects resulting in the permanent elimination of lead-based paint hazards, conducted by firms or individuals who, through their company name or promotional literature, represent, advertise, or hold themselves out to be in the business of performing lead-based paint activities as identified and defined by this section, unless such projects are covered by (c) of this subsection; or

(iv) Projects resulting in the permanent elimination of lead-based paint hazards, that are conducted in response to state or local abatement orders.

(c) Abatement does not include renovation, remodeling, landscaping, or other activities, when such activities are not designed to permanently eliminate lead-based paint hazards, but, instead, are designed to repair, restore, or remodel a given structure or dwelling, even though these activities may incidentally result in a reduction or elimination of lead-based paint hazards. Furthermore, abatement does not include interim controls, operations and maintenance activities, or other measures and activities designed to temporarily, but not permanently, reduce lead-based paint hazards.

(2) "Accredited training program" means a training program that has been accredited by the department to provide training for individuals engaged in lead-based paint activities.

(3) "Certified inspector" means an individual who has been trained by an accredited training program, meets all the qualifications established by the department, and is certified by the department to conduct inspections.

(4) "Certified abatement worker" means an individual who has been trained by an accredited training program, meets all the qualifications established by the department, and is certified by the department to perform abatements.

(5) "Certified firm" includes a company, partnership, corporation, sole proprietorship, association, agency, or other business entity that meets all the qualifications established by the department and performs lead-based paint activities to which the department has issued a certificate.

(6) "Certified project designer" means an individual who has been trained by an accredited training program, meets all the qualifications established by the department, and is certified by the department to prepare abatement project designs, occupant protection plans, and abatement reports.

(7) "Certified risk assessor" means an individual who has been trained by an accredited training program, meets all the qualifications established by the department, and is certified by the department to conduct risk assessments and sample for the presence of lead in dust and soil for the purposes of abatement clearance testing.

(8) "Certified supervisor" means an individual who has been trained by an accredited training program, meets all the qualifications established by the department, and is certified by the department to supervise and conduct abatements, and to prepare occupant protection plans and abatement reports.

(9) "Department" means the Washington state department of community, trade, and economic development.

(10) "Director" means the director of the Washington state department of community, trade, and economic development.

(11) "Federal laws and rules" means:

(a) Title IV, toxic substances control act (15 U.S.C. Sec. 2681 et seq.) and the rules adopted by the United States environmental protection agency under that law for authorization of state programs;

(b) Any regulations or requirements adopted by the United States department of housing and urban development regarding eligibility for grants to states and local governments; and

(c) Any other requirements adopted by a federal agency with jurisdiction over lead-based paint hazards.

(12) "Lead-based paint" means paint or other surface coatings that contain lead equal to or in excess of 1.0 milligrams per square centimeter or more than 0.5 percent by weight.

(13) "Lead-based paint activity" includes inspection, testing, risk assessment, lead-based paint hazard reduction project design or planning, or abatement of lead-based paint hazards.

(14) "Lead-based paint hazard" means any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, or lead-contaminated paint that is deteriorated or present in accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects as identified by the administrator of the United States environmental protection agency under the toxic substances control act, section 403.

(15) "State program" means a state administered lead-based paint activities certification and training program that meets the federal environmental protection agency requirements.

(16) "Person" includes an individual, corporation, firm, partnership, or association, an Indian tribe, state, or political subdivision of a state, and a state department or agency.

(17) "Risk assessment" means:

(a) An on-site investigation to determine the existence, nature, severity, and location of lead-based paint hazards; and

(b) The provision of a report by the individual or the firm conducting the risk assessment, explaining the results of the investigation and options for reducing lead-based paint hazards.

NEW SECTION. Sec. 3. (1) The department shall administer and enforce a state program for worker training and certification, and training program accreditation, which shall include those program elements necessary to assume

responsibility for federal requirements for a program as set forth in Title IV of the toxic substances control act (15 U.S.C. Sec. 2601 et seq.), the residential lead-based paint hazard reduction act of 1992 (42 U.S.C. Sec. 4851 et seq.), 40 C.F.R. Part 745, Subparts L and Q (1996), and Title X of the housing and community development act of 1992 (P.L. 102-550). The department may delegate or enter into a memorandum of understanding with local governments or private entities for implementation of components of the state program.

(2) The department is authorized to adopt rules that are consistent with federal requirements to implement a state program. Rules adopted under this section shall:

(a) Establish minimum accreditation requirements for lead-based paint activities for training providers;

(b) Establish work practice standards for conduct of lead-based paint activities;

(c) Establish certification requirements for individuals and firms engaged in lead-based paint activities including provisions for recognizing certifications accomplished under existing certification programs;

(d) Require the use of certified personnel in all lead-based paint activities;

(e) Be revised as necessary to comply with federal law and rules and to maintain eligibility for federal funding;

(f) Facilitate reciprocity and communication with other states having a lead-based paint certification program;

(g) Provide for decertification, deaccreditation, and financial assurance for a person certified by or a training provider accredited by the department; and

(h) Be issued in accordance with the administrative procedure act, chapter 34.05 RCW.

(3) The department may accept federal funds for the administration of the program.

(4) This program shall equal, but not exceed, legislative authority under federal requirements as set forth in Title IV of the toxic substances control act (15 U.S.C. Sec. 2601 et seq.), the residential lead-based paint hazard reduction act of 1992 (42 U.S.C. Sec. 4851 et seq.), and Title X of the housing and community development act of 1992 (P.L. 102-550).

(5) Any rules adopted by the department shall be consistent with federal laws, regulations, and requirements relating to lead-based paint activities specified by the residential lead-based paint hazard reduction act of 1992 (42 U.S.C. Sec. 4851 et seq.) and Title X of the housing and community development act of 1992 (P.L. 102-550), and rules adopted pursuant to chapter 70.105D RCW, to ensure consistency in regulatory action. The rules may not be more restrictive than corresponding federal and state regulations unless such stringency is specifically authorized by this chapter.

(6) The department shall collect a fee in the amount of twenty-five dollars for certification and recertification of lead paint firms, inspectors, project developers, risk assessors, supervisors, and abatement workers.

(7) The department shall collect a fee in the amount of two hundred dollars for the accreditation of lead paint training programs.

NEW SECTION. Sec. 4. (1) The department shall establish a program for certification of persons involved in lead-based paint activities and for accreditation of training providers in compliance with federal laws and rules.

(2) Rules adopted under this section shall:

(a) Establish minimum accreditation requirements for lead-based paint activities for training providers;

(b) Establish work practice standards for conduct of lead-based paint activities;

(c) Establish certification requirements for individuals and firms engaged in lead-based paint activities including provisions for recognizing certifications accomplished under existing certification programs;

(d) Require the use of certified personnel in any lead-based paint hazard reduction activity;

(e) Be revised as necessary to comply with federal law and rules and to maintain eligibility for federal funding;

(f) Facilitate reciprocity and communication with other states having a lead-based paint certification program;

(g) Provide for decertification, deaccreditation, and financial assurance for a person certified or accredited by the department; and

(h) Be issued in accordance with the administrative procedure act, chapter 34.05 RCW.

(3) This program shall equal, but not exceed, legislative authority under federal requirements as set forth in Title IV of the toxic substances control act (15 U.S.C. Sec. 2601 et seq.), the residential lead-based paint hazard reduction act of 1992 (42 U.S.C. Sec. 4851 et seq.), 40 C.F.R. Part 745 (1996), Subparts L and Q, and Title X of the housing and community development act of 1992 (P.L. 102-550).

(4) Any rules adopted by the department shall be consistent with federal laws, regulations, and requirements relating to lead-based paint activities specified by the residential lead-based paint hazard reduction act of 1992 (42 U.S.C. Sec. 4851 et seq.) and Title X of the housing and community development act of 1992 (P.L. 102-550), and rules adopted pursuant to chapter 70.105D RCW, to ensure consistency in regulatory action. The rules may not be more restrictive than corresponding federal and state regulations unless such stringency is specifically authorized by this chapter.

(5) The department may accept federal funds for the administration of the program.

NEW SECTION. Sec. 5. The department shall adopt rules to:

(1) Establish procedures and requirements for the accreditation of lead-based paint activities training programs including, but not limited to, the following:

(a) Training curriculum;

(b) Training hours;

(c) Hands-on training;

(d) Trainee competency and proficiency;

(e) Training program quality control;

(f) Procedures for the reaccreditation of training programs;

(g) Procedures for the oversight of training programs; and

(h) Procedures for the suspension, revocation, or modification of training program accreditations, or acceptance of training offered by an accredited training provider in another state or Indian tribe authorized by the environmental protection agency;

(2) Establish procedures for the purposes of certification, for the acceptance of training offered by an accredited training provider in a state or Indian tribe authorized by the environmental protection agency;

(3) Certify individuals involved in lead-based paint activities to ensure that certified individuals are trained by an accredited training program and possess appropriate educational or experience qualifications for certification;

(4) Establish procedures for recertification;

(5) Require the conduct of lead-based paint activities in accordance with work practice standards;

(6) Establish procedures for the suspension, revocation, or modification of certifications; and

(7) Establish requirements for the administration of third-party certification exams;

(8) Use laboratories accredited under the environmental protection agency's national lead laboratory accreditation program;

(9) Establish work practice standards for the conduct of lead-based paint activities for:

(a) Inspection for presence of lead-based paint;

(b) Risk assessment; and

(c) Abatement;

(10) Establish an enforcement response policy that shall include:

(a) Warning letters, notices of noncompliance, notices of violation, or the equivalent;

(b) Administrative or civil actions, including penalty authority, including accreditation or certification suspension, revocation, or modification; and

(c) Authority to apply criminal sanctions or other criminal authority using existing state laws as applicable.

The department shall prepare and submit a biennial report to the legislature regarding the program's status, its costs, and the number of persons certified by the program.

NEW SECTION. Sec. 6. The lead paint account is created in the state treasury. All receipts from section 3 of this act shall be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for the purposes of this chapter.

NEW SECTION. Sec. 7. (1)(a) The director or the director's designee is authorized to inspect at reasonable times and, when feasible, with at least twenty-four hours prior notification:

(i) Premises or facilities where those engaged in training for lead-based paint activities conduct business; and

(ii) The business records of, and take samples at, the businesses accredited or certified under this chapter to conduct lead-based paint training or activities.

(b) Any accredited training program or any firm or individual certified under this chapter that denies access to the department for the purposes of (a) of this subsection is subject to deaccreditation or decertification under section 4 of this act.

(2) The director or the director's designee is authorized to inspect premises or facilities, with the consent of the owner or owner's agent, where violations may occur concerning lead-based paint activities, as defined under section 2 of

this act, at reasonable times and, when feasible, with at least forty-eight hours prior notification of the inspection.

(3) Prior to receipt of federal lead-based paint abatement funding, all premise or facility owners shall be notified by any entity that receives and disburses the federal funds that an inspection may be conducted. If a premise or facility owner does not wish to have an inspection conducted, that owner is not eligible to receive lead-based paint abatement funding.

NEW SECTION. Sec. 8. (1) The department is designated as the official agency of this state for purposes of cooperating with, and implementing the state lead-based paint activities program under the jurisdiction of the United States environmental protection agency.

(2) No individual or firm can perform, offer, or claim to perform lead-based paint activities without certification from the department to conduct these activities.

(3) The department may deny, suspend, or revoke a certificate for failure to comply with the requirements of this chapter or any rule adopted under this chapter. No person whose certificate is revoked under this chapter shall be eligible to apply for a certificate for one year from the effective date of the final order of revocation. A certificate may be denied, suspended, or revoked on any of the following grounds:

(a) A risk assessor, inspector, contractor, project designer, or worker violates work practice standards established by the United States environmental protection agency or the United States department of housing and urban development governing work practices and procedures; or

(b) The certificate was obtained by error, misrepresentation, or fraud.

(4) Any person convicted of violating any of the provisions of this chapter is guilty of a misdemeanor. A conviction is an unvacated forfeiture of bail or collateral 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 chapter, regardless of whether imposition of sentence is deferred or the penalty is suspended, and shall be treated as a violation conviction for purposes of certification forfeiture under this chapter. Violations of this chapter include:

(a) Failure to comply with any requirement of this chapter;

(b) Failure or refusal to establish, maintain, provide, copy, or permit access to records or reports as required;

(c) Obtaining certification through fraud or misrepresentation;

(d) Failure to obtain certification from the department and performing work requiring certification at a job site; or

(e) Fraudulently obtaining certification and engaging in any lead-based paint activities requiring certification.

NEW SECTION. Sec. 9. (1) The department's duties under this act are subject to authorization of the state program from the federal government within two years of the effective date of this section. This act expires if the federal environmental protection agency does not authorize a state program within two years of the effective date of this act.

(2) The department's duties under this act are subject to the availability of sufficient funding from the federal government for this purpose. The director or his or her designee shall seek funding of the department's efforts under this

chapter from the federal government. By October 15th of each year, the director shall determine if sufficient federal funding has been provided or guaranteed by the federal government. If the director determines sufficient funding has not been provided, the department shall cease efforts under this chapter due to the lack of federal funding.

NEW SECTION, Sec. 10. Sections 1 through 9 of this act constitute a new chapter in Title 70 RCW.

Passed by the Senate April 22, 2003.

Passed by the House April 17, 2003.

Approved by the Governor May 16, 2003.

Filed in Office of Secretary of State May 16, 2003.

CHAPTER 323

[Substitute House Bill 2132]

PUBLIC CONTRACTS—PUBLIC HOSPITAL PROJECTS

AN ACT Relating to public building or construction contracts; amending RCW 48.30.270; reenacting and amending RCW 48.30.270; providing an effective date; and providing an expiration date.

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

Sec. I. RCW 48.30.270 and 2000 2nd sp.s. c 4 s 33 and 2000 c 143 s 2 are each reenacted and amended to read as follows:

(1) No officer or employee of this state, or of any public agency, public authority or public corporation except a public corporation or public authority created pursuant to agreement or compact with another state, and no person acting or purporting to act on behalf of such officer or employee, or public agency or public authority or public corporation, shall, with respect to any public building or construction contract which is about to be, or which has been competitively bid, require the bidder to make application to, or to furnish financial data to, or to obtain or procure, any of the surety bonds or contracts of insurance specified in connection with such contract, or specified by any law, general, special or local, from a particular insurer or agent or broker.

(2) No such officer or employee or any person, acting or purporting to act on behalf of such officer or employee shall negotiate, make application for, obtain or procure any of such surety bonds or contracts of insurance, except contracts of insurance for builder's risk or owner's protective liability, which can be obtained or procured by the bidder, contractor or subcontractor.

(3) This section shall not be construed to prevent the exercise by such officer or employee on behalf of the state or such public agency, public authority, or public corporation of its right to approve the form, sufficiency or manner or execution of the surety bonds or contracts of insurance furnished by the insurer selected by the bidder to underwrite such bonds, or contracts of insurance.

(4) Any provisions in any invitation for bids, or in any of the contract documents, in conflict with this section are declared to be contrary to the public policy of this state.

(5) A violation of this section shall be subject to the penalties provided by RCW 48.01.080.

(6) This section shall not apply to:

- (a) The public nonprofit corporation authorized under RCW 67.40.020;
 ((☞))
- (b) Projects in excess of one hundred million dollars for port districts formed under chapter 53.04 RCW; ((☞))
- (c) A regional transit authority authorized under RCW 81.112.030; or
- (d) Projects in excess of one hundred million dollars for counties with a population over one million, for projects administered for public hospitals.

Sec. 2. RCW 48.30.270 and 2000 2nd sp.s. c 4 s 33 are each amended to read as follows:

(1) No officer or employee of this state, or of any public agency, public authority or public corporation except a public corporation or public authority created pursuant to agreement or compact with another state, and no person acting or purporting to act on behalf of such officer or employee, or public agency or public authority or public corporation, shall, with respect to any public building or construction contract which is about to be, or which has been competitively bid, require the bidder to make application to, or to furnish financial data to, or to obtain or procure, any of the surety bonds or contracts of insurance specified in connection with such contract, or specified by any law, general, special or local, from a particular insurer or agent or broker.

(2) No such officer or employee or any person, acting or purporting to act on behalf of such officer or employee shall negotiate, make application for, obtain or procure any of such surety bonds or contracts of insurance, except contracts of insurance for builder's risk or owner's protective liability, which can be obtained or procured by the bidder, contractor or subcontractor.

(3) This section shall not be construed to prevent the exercise by such officer or employee on behalf of the state or such public agency, public authority, or public corporation of its right to approve the form, sufficiency or manner or execution of the surety bonds or contracts of insurance furnished by the insurer selected by the bidder to underwrite such bonds, or contracts of insurance.

(4) Any provisions in any invitation for bids, or in any of the contract documents, in conflict with this section are declared to be contrary to the public policy of this state.

(5) A violation of this section shall be subject to the penalties provided by RCW 48.01.080.

(6) This section shall not apply to:

- (a) The public nonprofit corporation authorized under RCW 67.40.020;
 ((☞))
- (b) A regional transit authority authorized under RCW 81.112.030; or
- (c) Projects in excess of one hundred million dollars for counties with a population over one million, for projects administered for public hospitals.

NEW SECTION. Sec. 3. Section 1 of this act expires December 31, 2006.

NEW SECTION. Sec. 4. Section 2 of this act takes effect December 31, 2006.

Passed by the House April 22, 2003.

Passed by the Senate April 17, 2003.

Approved by the Governor May 16, 2003.

Filed in Office of Secretary of State May 16, 2003.

CHAPTER 324

[House Bill 2223]

EVERGREEN STATE COLLEGE CAPITAL PROJECTS ACCOUNT—INTEREST

AN ACT Relating to interest on building accounts; and reenacting and amending RCW 43.84.092.

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

Sec. 1. RCW 43.84.092 and 2002 c 242 s 2, 2002 c 114 s 24, and 2002 c 56 s 402 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the common school construction fund, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of retirement systems expense account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the emergency reserve fund, The Evergreen State College capital projects account, the federal forest

revolving account, the health services account, the public health services account, the health system capacity account, the personal health services account, the state higher education construction account, the higher education construction account, the highway infrastructure account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the Puyallup tribal settlement account, the regional transportation investment district account, the resource management cost account, the site closure account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation infrastructure account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer fire fighters' and reserve officers' relief and pension principal fund, the volunteer fire fighters' and reserve officers' administrative fund, the Washington fruit express account, the Washington judicial retirement system account, the Washington law enforcement officers' and fire fighters' system plan 1 retirement account, the Washington law enforcement officers' and fire fighters' system plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (4)(a) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(b) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the county arterial preservation account, the department of licensing services account, the essential rail assistance account, the ferry bond retirement fund, the grade crossing protective fund, the high capacity

transportation account, the highway bond retirement fund, the highway safety account, the motor vehicle fund, the motorcycle safety education account, the pilotage account, the public transportation systems account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the recreational vehicle account, the rural arterial trust account, the safety and education account, the special category C account, the state patrol highway account, the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, and the urban arterial trust account.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

Passed by the House April 11, 2003.

Passed by the Senate April 17, 2003.

Approved by the Governor May 16, 2003.

Filed in Office of Secretary of State May 16, 2003.

CHAPTER 325

[Engrossed Substitute Senate Bill 5889]

ANIMAL FEEDING OPERATIONS

AN ACT Relating to animal feeding operations; amending RCW 90.64.030, 90.64.120, 90.64.150, and 90.48.260; adding a new section to chapter 90.64 RCW; creating new sections; providing an effective date; providing an expiration date; and declaring an emergency.

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

NEW SECTION. Sec. 1. A livestock nutrient management program is essential to ensuring a healthy and productive livestock industry in Washington state. The goal of the program must be to provide clear guidance to livestock farms as to their responsibilities under state and federal law to protect water quality while maintaining a healthy business climate for these farms. The program should develop reasonable financial assistance resources, educational and technical assistance to meet these responsibilities, and provide for periodic inspection and enforcement actions to ensure compliance with state and federal water quality laws. The legislature intends that by 2006, there will be a fully functioning state program for concentrated animal feeding operations in the state, and that this program will be a single program for all livestock sectors.

The legislature finds that a livestock nutrient management program is necessary to address the federal rule changes with which livestock operations must comply. Furthermore, budgetary conditions demand efficient and effective governance. In addition, many of the existing requirements and goals for dairy farms will be completed by December 2003, and revisions will be needed.

NEW SECTION. Sec. 2. (1) A livestock nutrient management program development and oversight committee is created comprised of the following members, appointed as follows:

(a) The director of the department of agriculture, or the director's designee, who shall serve as committee chair;

(b) The director of the department of ecology, or the director's designee;

(c) A representative of the United States environmental protection agency, appointed by the regional director of the agency unless the agency chooses not to be represented on the committee;

(d) A representative of commercial shellfish growers, nominated by an organization representing these growers, appointed by the governor;

(e) A representative of an environmental interest organization with familiarity and expertise in water quality issues, appointed by the governor;

(f) A representative of tribal governments as nominated by an organization representing tribal governments, appointed by the governor;

(g) A representative of Washington State University appointed by the dean of the college of agriculture and home economics;

(h) A representative of the Washington association of conservation districts, appointed by the association's board of officers;

(i) Three representatives of dairy producers nominated by a statewide organization representing dairy producers in the state, appointed by the governor;

(j) Two representatives of beef cattle producers nominated by a statewide organization representing beef cattle producers in the state, appointed by the governor;

(k) One representative of poultry producers nominated by a statewide organization representing poultry producers in the state, appointed by the governor;

(l) One representative of the commercial cattle feedlots nominated by a statewide organization representing commercial cattle feedlots in the state, appointed by the governor; and

(m) A representative of any other segment of the livestock industry determined by the director of agriculture to be subject to federal rules regulating animal feeding or concentrated animal feeding operations.

(2) The state department of agriculture shall provide staff for the committee. The department of agriculture may request staff assistance be assigned by the United States environmental protection agency to assist the director in staffing the committee.

(3) The committee shall establish a work plan that includes a list of tasks and a projected completion date for each task.

(4) The committee may establish a subcommittee for each of the major industry segments that is covered by the recently adopted federal regulations that pertain to animal feeding operations and concentrated animal feeding operations. The subcommittee shall be composed of selected members of the full committee and additional representatives from that major segment of the livestock industry as determined by the director. The committee shall assign tasks to the subcommittees and shall establish dates for each subcommittee to report back to the full committee.

(5) The committee shall examine the recently adopted federal regulations that provide for the regulation of animal feeding operations and concentrated animal feeding operations and develop a program to be administered by the department of agriculture that meets the requirements and time frames contained in the federal rules. Elements that the committee shall evaluate include:

(a) A process for adopting standards and for developing plans for each operation that meet these standards;

(b) A process for revising current national pollution discharge elimination system permits currently held by livestock operations and to transition these permits into the new system; and

(c) In consultation with the director, a determination of what other work is needed and what other institutional relationships are needed or desirable. The committee shall consult with representatives of the statewide association of conservation districts regarding any functions or activities that are proposed to be provided through local conservation districts.

(6) The committee shall review and comment on proposals for grants from the livestock nutrient management account created in RCW 90.64.150.

(7) The committee shall develop draft proposed legislation that includes:

(a) Statutory changes, including a time line to achieve the phased-in levels of regulation under federal law, to comply with the minimum requirements under federal law and the minimum requirements under chapter 90.48 RCW. These changes must meet the requirements necessary to enable the department of agriculture and the department of ecology to pursue the United States environmental protection agency's approval of the transfer of the permitting program as it relates to the concentrated animal feeding operations from the department of ecology to the department of agriculture;

(b) Statutory changes necessitated by the transfer of functions under chapter 90.64 RCW from the department of ecology to the department of agriculture;

(c) Continued inspection of dairy operations at least once every two years;

(d) An outreach and education program to inform the various animal feeding operations and concentrated animal feeding operations of the program's elements; and

(e) Annual reporting to the legislature on the progress of the state strategy for implementing the animal feeding operation and concentrated animal feeding operation.

(8) The committee shall provide a report by December 1, 2003, to appropriate committees of the legislature that includes the results of the committee's evaluation under subsection (5) of this section and draft legislation to initiate the program.

(9) This section expires June 30, 2006.

Sec. 3. RCW 90.64.030 and 2002 c 327 s 1 are each amended to read as follows:

(1) Under the inspection program established in RCW 90.64.023, the department may investigate a dairy farm to determine whether the operation is discharging pollutants or has a record of discharging pollutants into surface or ground waters of the state. Upon concluding an investigation, the department shall make a written report of its findings, including the results of any water quality measurements, photographs, or other pertinent information, and provide a copy of the report to the dairy producer within twenty days of the investigation.

(2) The department shall investigate a written complaint filed with the department within three working days and shall make a written report of its findings including the results of any water quality measurements, photographs, or other pertinent information. Within twenty days of receiving a written complaint, a copy of the findings shall be provided to the dairy producer subject to the complaint, and to the complainant if the person gave his or her name and address to the department at the time the complaint was filed.

(3) The department may consider past complaints against the same dairy farm from the same person and the results of its previous inspections, and has the discretion to decide whether to conduct an inspection if:

(a) The same or a similar complaint or complaints have been filed against the same dairy farm within the immediately preceding six-month period; and

(b) The department made a determination that the activity that was the subject of the prior complaint was not a violation.

(4) If the decision of the department is not to conduct an inspection, it shall document the decision and the reasons for the decision within twenty days. The department shall provide the decision to the complainant if the name and address were provided to the department, and to the dairy producer subject to the complaint, and the department shall place the decision in the department's administrative records.

(5) The report of findings of any inspection conducted as the result of either an oral or a written complaint shall be placed in the department's administrative records. Only findings of violations shall be entered into the data base identified in RCW 90.64.130.

(6) A dairy farm that is determined to be a significant contributor of pollution based on actual water quality tests, photographs, or other pertinent information is subject to the provisions of this chapter and to the enforcement provisions of chapters 43.05 and 90.48 RCW, including civil penalties levied under RCW 90.48.144.

(7) If the department determines that an unresolved water quality problem from a dairy farm requires immediate corrective action, the department shall notify the producer and the district in which the problem is located. When corrective actions are required to address such unresolved water quality problems, the department shall provide copies of all final dairy farm inspection reports and documentation of all formal regulatory and enforcement actions taken by the department against that particular dairy farm to the local conservation district and to the appropriate dairy farm within twenty days.

(8) For a violation of water quality laws that is a first offense for a dairy producer, the penalty may be waived to allow the producer to come into compliance with water quality laws. The department shall record all legitimate violations and subsequent enforcement actions.

(9) A discharge, including a storm water discharge, to surface waters of the state shall not be considered a violation of this chapter, chapter 90.48 RCW, or chapter 173-201A WAC, and shall therefore not be enforceable by the department of ecology or a third party, if at the time of the discharge, a violation is not occurring under RCW 90.64.010(18). In addition, a dairy producer shall not be held liable for violations of this chapter, chapter 90.48 RCW, chapter 173-201A WAC, or the federal clean water act due to the discharge of dairy nutrients to waters of the state resulting from spreading these materials on lands other than where the nutrients were generated, when the nutrients are spread by persons other than the dairy producer or the dairy producer's agent.

(10) As provided under RCW 7.48.305, agricultural activities associated with the management of dairy nutrients are presumed to be reasonable and shall not be found to constitute a nuisance unless the activity has a substantial adverse effect on public health and safety.

(11) This section specifically acknowledges that if a holder of a general or individual national pollutant discharge elimination system permit complies with the permit and the dairy nutrient management plan conditions for appropriate land application practices, the permit provides compliance with the federal clean water act and acts as a shield against citizen or agency enforcement for any additions of pollutants to waters of the state or of the United States as authorized by the permit.

(12) A dairy producer who fails to have an approved dairy nutrient management plan by July 1, 2002, or a certified dairy nutrient management plan by December 31, 2003, and for which no appeals have been filed with the pollution control hearings board, is in violation of this chapter. Each month beyond these deadlines that a dairy producer is out of compliance with the requirement for either plan approval or plan certification shall be considered separate violations of chapter 90.64 RCW that may be subject to penalties. Such penalties may not exceed one hundred dollars per month for each violation up to a combined total of five thousand dollars. The department has discretion in imposing penalties for failure to meet deadlines for plan approval or plan certification if the failure to comply is due to lack of state funding for implementation of the program. Failure to register as required in RCW 90.64.017 shall subject a dairy producer to a maximum penalty of one hundred dollars. Penalties shall be levied by the department.

Sec. 4. RCW 90.64.120 and 1993 c 221 s 13 are each amended to read as follows:

(1) Nothing in this chapter shall affect the (~~department's~~) department of ecology's authority or responsibility to administer or enforce the national pollutant discharge elimination system permits for operators of concentrated dairy animal feeding operations, where required by federal regulations or to administer the provisions of chapter 90.48 RCW.

(2) Unless the department of ecology delegates its authority under chapter 90.48 RCW to the department of agriculture pursuant to RCW 90.48.260, and until any such delegation of authority receives federal approval, the transfer specified in section 6 of this act shall not preclude the department of ecology from taking action related to animal feeding operations or concentrated animal feeding operations to protect water quality pursuant to its authority in chapter 90.48 RCW. Before taking such actions, the department of ecology shall notify the department of agriculture.

Sec. 5. RCW 90.64.150 and 1998 c 262 s 15 are each amended to read as follows:

The (~~dairy waste~~) livestock nutrient management account is created in the custody of the state treasurer. All receipts from monetary penalties levied pursuant to violations of this chapter must be deposited into the account. Expenditures from the account may be used only (~~for the commission~~) to provide grants (~~to local conservation districts for the sole purpose of assisting dairy producers to develop and fully implement dairy nutrient management plans~~) for research or education proposals that assist livestock operations to achieve compliance with state and federal water quality laws. The director of agriculture shall accept and prioritize research proposals and education proposals. Only the (~~chairman of the commission~~) director or the

((chairman's)) director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

NEW SECTION. Sec. 6. A new section is added to chapter 90.64 RCW to read as follows:

(1) All powers, duties, and functions of the department of ecology pertaining to chapter 90.64 RCW are transferred to the department of agriculture. All references to the director of ecology or the department of ecology in the Revised Code of Washington shall be construed to mean the director of agriculture or the department of agriculture when referring to the functions transferred in this section.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of ecology pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the department of agriculture. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of ecology in carrying out the powers, functions, and duties transferred shall be made available to the department of agriculture. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the department of agriculture.

(b) Any appropriations made to the department of ecology for carrying out the powers, functions, and duties transferred shall, on the effective date of this section, be transferred and credited to the department of agriculture.

(c) Whenever any question arises as to the transfer of any funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All rules and all pending business before the department of ecology pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the department of agriculture. All existing contracts and obligations shall remain in full force and shall be performed by the department of agriculture.

(4) The transfer of the powers, duties, and functions of the department of ecology shall not affect the validity of any act performed before the effective date of this section.

(5) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

Sec. 7. RCW 90.48.260 and 1988 c 220 s 1 are each amended to read as follows:

The department of ecology is hereby designated as the State Water Pollution Control Agency for all purposes of the federal clean water act as it exists on February 4, 1987, and is hereby authorized to participate fully in the programs of

the act as well as to take all action necessary to secure to the state the benefits and to meet the requirements of that act. With regard to the national estuary program established by section 320 of that act, the department shall exercise its responsibility jointly with the Puget Sound water quality authority. The department of ecology may delegate its authority under this chapter, including its national pollutant discharge elimination permit system authority and duties regarding animal feeding operations and concentrated animal feeding operations, to the department of agriculture through a memorandum of understanding. Until any such delegation receives federal approval, the department of agriculture's adoption or issuance of animal feeding operation and concentrated animal feeding operation rules, permits, programs, and directives pertaining to water quality shall be accomplished after reaching agreement with the director of the department of ecology. Adoption or issuance and implementation shall be accomplished so that compliance with such animal feeding operation and concentrated animal feeding operation rules, permits, programs, and directives will achieve compliance with all federal and state water pollution control laws. The powers granted herein include, among others, and notwithstanding any other provisions of chapter 90.48 RCW or otherwise, the following:

(1) Complete authority to establish and administer a comprehensive state point source waste discharge or pollution discharge elimination permit program which will enable the department to qualify for full participation in any national waste discharge or pollution discharge elimination permit system and will allow the department to be the sole agency issuing permits required by such national system operating in the state of Washington subject to the provisions of RCW 90.48.262(2). Program elements authorized herein may include, but are not limited to: (a) Effluent treatment and limitation requirements together with timing requirements related thereto; (b) applicable receiving water quality standards requirements; (c) requirements of standards of performance for new sources; (d) pretreatment requirements; (e) termination and modification of permits for cause; (f) requirements for public notices and opportunities for public hearings; (g) appropriate relationships with the secretary of the army in the administration of his responsibilities which relate to anchorage and navigation, with the administrator of the environmental protection agency in the performance of his duties, and with other governmental officials under the federal clean water act; (h) requirements for inspection, monitoring, entry, and reporting; (i) enforcement of the program through penalties, emergency powers, and criminal sanctions; (j) a continuing planning process; and (k) user charges.

(2) The power to establish and administer state programs in a manner which will insure the procurement of moneys, whether in the form of grants, loans, or otherwise; to assist in the construction, operation, and maintenance of various water pollution control facilities and works; and the administering of various state water pollution control management, regulatory, and enforcement programs.

(3) The power to develop and implement appropriate programs pertaining to continuing planning processes, area-wide waste treatment management plans, and basin planning.

The governor shall have authority to perform those actions required of him or her by the federal clean water act.

NEW SECTION. Sec. 8. Such actions as are necessary to make the appointments to the committee created in section 2 of this act shall be taken before July 1, 2003, to make the appointments on that date.

NEW SECTION. Sec. 9. Sections 2 and 6 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2003.

Passed by the Senate April 26, 2003.

Passed by the House April 26, 2003.

Approved by the Governor May 16, 2003.

Filed in Office of Secretary of State May 16, 2003.

CHAPTER 326

[Substitute Senate Bill 5891]

LIVESTOCK IDENTIFICATION

AN ACT Relating to livestock identification; amending RCW 16.57.010, 16.57.015, 16.57.020, 16.57.023, 16.57.025, 16.57.030, 16.57.040, 16.57.050, 16.57.080, 16.57.090, 16.57.100, 16.57.120, 16.57.130, 16.57.140, 16.57.150, 16.57.160, 16.57.165, 16.57.170, 16.57.180, 16.57.200, 16.57.210, 16.57.220, 16.57.230, 16.57.240, 16.57.260, 16.57.270, 16.57.275, 16.57.280, 16.57.290, 16.57.300, 16.57.310, 16.57.320, 16.57.330, 16.57.340, 16.57.360, 16.57.370, 16.57.400, 16.57.410, 16.58.020, 16.58.030, 16.58.040, 16.58.050, 16.58.060, 16.58.070, 16.58.080, 16.58.095, 16.58.100, 16.58.110, 16.58.130, 16.58.140, 16.58.150, 16.58.160, 16.58.170, 16.65.010, 16.65.015, 16.65.020, 16.65.030, 16.65.037, 16.65.040, 16.65.042, 16.65.050, 16.65.080, 16.65.090, 16.65.100, 16.65.140, 16.65.170, 16.65.190, 16.65.200, 16.65.235, 16.65.260, 16.65.270, 16.65.280, 16.65.300, 16.65.340, 16.65.350, 16.65.380, 16.65.390, 16.65.400, 16.65.420, 16.65.424, 16.65.440, and 16.65.445; adding new sections to chapter 16.57 RCW; adding a new section to chapter 16.65 RCW; adding a new section to chapter 42.17 RCW; creating a new section; repealing RCW 16.57.380, 16.65.110, 16.65.422, and 16.65.423; prescribing penalties; 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 new federal country of origin labeling requirements, long-term national strategies for monitoring and reporting animal diseases, and potential food safety requirements for homeland security need to be evaluated. The legislature finds that while livestock identification laws used primarily for theft prevention are being updated, the affected industry with assistance from the department of agriculture should consider whether the current livestock identification system will help to satisfy these emerging requirements or needs to be adapted.

The department shall form an advisory committee representing all major sectors of the livestock industry to which federal country of origin labeling requirements will apply. The committee shall evaluate what mechanisms may need to be established by the public, the private sector, or both to comply with the federal country of origin labeling requirements. Included in the topics that should be examined are recordkeeping, identification, and methods of traceability of the origin of various products.

Additionally, the committee shall monitor and evaluate any requirements that may be placed on the meat products industry by federal food safety and traceability requirements as part of homeland security measures. Also, the committee shall review the national identification work plan developed by the national food animal identification task force. Participation on the advisory

committee by representatives of producers of private sector cultured aquatic products is at the option of organizations representing various segments of that industry.

At the discretion of the director, additional segments of the meat products industry such as processors, wholesalers, and retailers may be invited to participate in this or another forum to more comprehensively examine these topics.

The department is to hold a minimum of two meetings of the committee and to encourage formation of informal groups involved in the food chain from the farm to the retail counter to develop an efficient strategy for addressing these issues.

The department shall submit a written report of the findings and conclusion of the advisory committee to the appropriate committees of the senate and the house of representatives by December 1, 2005.

Sec. 2. RCW 16.57.010 and 1996 c 105 s 1 are each amended to read as follows:

For the purpose of this chapter:

(1) "Department" means the department of agriculture of the state of Washington.

(2) "Director" means the director of the department or ((a)) his or her duly ((appointed)) authorized representative.

(3) "Person" means a natural person, individual, firm, partnership, corporation, company, society, and association, and every officer, agent or employee thereof. This term shall import either the singular or the plural as the case may be.

(4) "Livestock" includes, but is not limited to, horses, mules, cattle, sheep, swine, and goats(~~(, poultry and rabbits)~~).

(5) "Brand" means a permanent fire brand or any artificial mark, other than an individual identification symbol, approved by the director to be used in conjunction with a brand or by itself.

(6) "Production record brand" means a number brand which shall be used for production identification purposes only.

(7) ("~~Brand~~) Livestock inspection" or "inspection" means the examination of livestock or livestock hides for brands or any means of identifying livestock or livestock hides ((and/or the application of any artificial identification such as back tags or ear clips necessary to preserve the identity of the livestock or livestock hides examined)) including the examination of documents providing evidence of ownership.

(8) "Individual identification symbol" means a permanent mark placed on a horse for the purpose of individually identifying and registering the horse and which has been approved for use as such by the director.

(9) "Registering agency" means any person issuing an individual identification symbol for the purpose of individually identifying and registering a horse.

(10) ("~~Poultry~~" means chickens, turkeys, ~~ratites, and other domesticated fowl.~~

((H))) "Ratite" means, but is not limited to, ostrich, emu, rhea, or other flightless bird used for human consumption, whether live or slaughtered.

~~((12)) "Ratite farming" means breeding, raising, and rearing of an ostrich, emu, or rhea in captivity or an enclosure.~~

~~(13))~~ (11) "Microchipping" means the implantation of an identification microchip or similar electronic identification device to establish the identity of an individual animal:

(a) In the pipping muscle of a chick ratite or the implantation of a microchip in the tail muscle of an otherwise unidentified adult ratite;

(b) In the nuchal ligament of a horse unless otherwise specified by rule of the director; and

(c) In locations of other livestock species as specified by rule of the director when requested by an association of producers of that species of livestock.

(12) "Certificate of permit" means a form prescribed by and obtained from the director that is completed by the owner or a person authorized to act on behalf of the owner to show the ownership of livestock. It is used to document ownership of livestock while in transit within the state or on consignment to any public livestock market, special sale, slaughter plant or certified feed lot. It does not evidence inspection of livestock.

(13) "Inspection certificate" means a certificate issued by the director or a veterinarian certified by the director documenting the ownership of an animal based on an inspection of the animal. It includes an individual identification certificate.

(14) "Individual identification certificate" means an inspection certificate that authorizes the livestock owner to transport the animal out of state multiple times within a set period of time.

(15) "Self-inspection certificate" means a form prescribed by and obtained from the director that is completed and signed by the buyer and seller of livestock to document a change in ownership.

(16) "Horses" means horses, burros, and mules.

Sec. 3. RCW 16.57.015 and 1993 c 354 s 10 are each amended to read as follows:

(1) The director shall establish a livestock identification advisory board. The board shall be composed of six members appointed by the director. One member shall represent each of the following groups: Beef producers, public livestock market operators, horse owners, dairy farmers, cattle feeders, and meat processors. As used in this subsection, "meat processor" means a person licensed to operate a slaughtering establishment under chapter 16.49 RCW or the federal meat inspection act (21 U.S.C. Sec. 601 et seq.). In making appointments, the director shall solicit nominations from organizations representing these groups statewide. The board shall elect a member to serve as chair of the board.

(2) The purpose of the board is to provide advice to the director regarding livestock identification programs administered under this chapter and regarding ~~((brand))~~ inspection fees and related licensing fees. The director shall consult the board before adopting, amending, or repealing a rule under this chapter or altering a fee under RCW 16.58.050, ~~((16.58.130,))~~ 16.65.030, 16.65.037, or 16.65.090. If the director publishes in the state register a proposed rule to be adopted under the authority of this chapter ~~((or a proposed rule setting a fee under RCW 16.58.050, 16.58.130, 16.65.030, or 16.65.090))~~ and the rule has not received the approval of the advisory board, the director shall file with the board

a written statement setting forth the director's reasons for proposing the rule without the board's approval.

(3) The members of the advisory board serve three-year terms. However, the director shall by rule provide shorter initial terms for some of the members of the board to stagger the expiration of the initial terms. The members serve without compensation. The director may authorize the expenses of a member to be reimbursed if the member is selected to attend a regional or national conference or meeting regarding livestock identification. Any such reimbursement shall be in accordance with RCW 43.03.050 and 43.03.060.

Sec. 4. RCW 16.57.020 and 1994 c 46 s 7 are each amended to read as follows:

The director shall be the recorder of livestock brands and such brands shall not be recorded elsewhere in this state. Any person desiring to ~~((register))~~ record a livestock brand shall apply on a form prescribed by the director. ~~((Such))~~ The application shall be accompanied by a facsimile of the brand applied for and a ~~((thirty-five))~~ one hundred twenty dollar recording fee. The director shall, upon his or her satisfaction that the application and brand facsimile meet the requirements of this chapter ~~((and/or))~~ and its rules ~~((adopted hereunder))~~, record ~~((such))~~ the brand.

Sec. 5. RCW 16.57.023 and 1998 c 263 s 5 are each amended to read as follows:

~~((+))~~ The ~~((board))~~ director may adopt rules establishing criteria and fees for the permanent renewal of brands registered with the department ~~((or with the board))~~ but renewed as livestock heritage brands. Such heritage brands are not intended for use on livestock.

~~((2))~~ ~~If the Washington state livestock identification board with authority and responsibility for administering the livestock identification program is not established by July 31, 1998, the department of agriculture is granted the authorities provided to the board by subsection (1) of this section.)~~

Sec. 6. RCW 16.57.025 and 1998 c 263 s 6 are each amended to read as follows:

~~((+))~~ The ~~((board))~~ director may enter into agreements with Washington state licensed and accredited veterinarians, who have been certified by the ~~((board))~~ director, to perform livestock inspection. Fees for livestock inspection performed by a certified veterinarian shall be collected by the veterinarian and remitted to the ~~((board))~~ director. Veterinarians providing livestock inspection may charge a fee for livestock inspection that is in addition to and separate from fees collected under RCW 16.57.220. The ~~((board))~~ director may adopt rules necessary to implement livestock inspection performed by veterinarians and may adopt fees to cover the cost associated with certification of veterinarians.

~~((2))~~ ~~If the Washington state livestock identification board with authority and responsibility for administering the livestock identification program is not established by July 31, 1998, the department of agriculture is granted all of the authorities provided to the board by subsection (1) of this section.)~~

Sec. 7. RCW 16.57.030 and 1959 c 54 s 3 are each amended to read as follows:

The director shall not record tattoo brands or marks for any purpose ~~((subsequent to the enactment of this chapter. However, all tattoo brands and~~

marks of record on the date of the enactment of this chapter shall be recognized as legal ownership brands or marks)).

Sec. 8. RCW 16.57.040 and 1974 ex.s. c 64 s 1 are each amended to read as follows:

The director may provide for the use of production record brands. Numbers for such brands shall be issued at the discretion of the director and shall be placed on livestock immediately below the ~~((registered))~~ recorded ownership brand or any other location prescribed by the director.

Sec. 9. RCW 16.57.050 and 1959 c 54 s 5 are each amended to read as follows:

No person shall place a brand on livestock for any purpose unless ~~((such))~~ the brand is recorded with the director in ((his)) the person's name.

Sec. 10. RCW 16.57.080 and 1994 c 46 s 16 are each amended to read as follows:

The director shall establish by rule a schedule for the renewal of ~~((registered))~~ recorded brands. The fee for renewal of ~~((the brands))~~ a recorded brand shall be ~~((no less than twenty-five))~~ one hundred twenty dollars for each ~~((two-year))~~ four-year period of brand ownership, except that the director may, in adopting a renewal schedule, provide for the collection of renewal fees on a prorated basis ~~((and may by rule increase the registration and renewal fee for brands by no more than fifty percent subsequent to a hearing under chapter 34.05 RCW and in conformance with RCW 16.57.015)).~~ At least sixty days before the expiration of a ~~((registered))~~ recorded brand, the director shall notify by letter the owner of record of the brand that on the payment of the ~~((requisite application fee and application of))~~ renewal fee the director shall issue ~~((the))~~ proof of payment allowing the brand owner exclusive ownership and use of the brand for the subsequent ~~((registration))~~ ownership period. The failure of the ~~((registered))~~ owner to pay the renewal fee by the date required by rule shall cause ~~((such owner's))~~ ownership of the brand to ((revert to the department. The director may)) expire. For ~~((a period of))~~ one year following ~~((such reversion, reissue such))~~ the expiration, the director shall record the brand only to the prior ((registered)) owner upon payment of the ((registration)) renewal fee and a late ((filing)) fee ((to be prescribed by the director by rule subsequent to a hearing under chapter 34.05 RCW and in conformance with RCW 16.57.015, for renewal subsequent to the regular renewal period. The director may at the director's discretion,)) of twenty-five dollars. If ~~((such))~~ the brand is not ((reissued)) recorded within one year to the prior ~~((registered))~~ owner, the director may issue ((such)) the brand to any other applicant.

Sec. 11. RCW 16.57.090 and 1994 c 46 s 17 are each amended to read as follows:

A brand is the personal property of the owner of record. Any instrument affecting the title of ~~((such))~~ the brand shall be ~~((acknowledged in the presence of))~~ executed by the recorded owner and acknowledged by a notary public. The director shall record ~~((such))~~ the instrument upon presentation and payment of a recording fee ~~((not to exceed fifteen))~~ of twenty-five dollars ~~((to be prescribed by the director by rule subsequent to a hearing under chapter 34.05 RCW and in conformance with RCW 16.57.015. Such)).~~ The recording shall be constructive notice to all the world of the existence and conditions affecting the title to

~~((such))~~ the brand. A copy of all records concerning the brand, certified by the director, shall be received in evidence to all intent and purposes as the original instrument. The director shall not be personally liable for failure of the director's agents to properly record ~~((such))~~ the instrument.

Sec. 12. RCW 16.57.100 and 1971 ex.s. c 135 s 3 are each amended to read as follows:

The right to use a brand shall be evidenced by the original certificate issued by the director showing that the brand is of present record or a certified copy of the record of ~~((such))~~ the brand showing that it is of present record. A healed brand of record on livestock shall be prima facie evidence that the recorded owner of ~~((such))~~ the brand has legal title to ~~((such))~~ the livestock and is entitled to its possession~~(~~:- PROVIDED, That~~).~~ The director may require additional proof of ownership (~~(of)~~ for any animal showing more than one healed brand.

Sec. 13. RCW 16.57.120 and 1991 c 110 s 2 are each amended to read as follows:

No person shall remove or alter a brand of record on livestock without first having secured the written permission of the director. Violation of this section ~~((shall be))~~ is a gross misdemeanor ~~((punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.021)).~~

Sec. 14. RCW 16.57.130 and 1959 c 54 s 13 are each amended to read as follows:

The director shall not record a brand that is identical to a brand of present record; nor a brand so similar to a brand of present record that it will be difficult to distinguish between ~~((such))~~ the brands when applied to livestock.

Sec. 15. RCW 16.57.140 and 1994 c 46 s 18 are each amended to read as follows:

The owner of a brand of record may ~~((procure))~~ obtain from the director a certified copy of the record of the owner's brand upon payment of a fee ~~((not to exceed seven dollars and fifty cents to be prescribed by the director by rule subsequent to a hearing under chapter 34.05 RCW and in conformance with RCW 16.57.015))~~ of fifteen dollars.

Sec. 16. RCW 16.57.150 and 1974 ex.s. c 64 s 5 are each amended to read as follows:

The director shall publish a book to be known as the "Washington State Brand Book", showing all the brands of record. ~~((Such))~~ The book shall contain the name and address of the owners of brands of record and a copy of the ~~((brand))~~ livestock identification laws and ((regulations)) rules. Supplements to ~~((such))~~ the brand book showing newly recorded brands, amendments, or newly adopted ~~((regulations,))~~ rules shall be published ~~((biennially, or prior thereto))~~ at the discretion of the director~~(~~:- PROVIDED, That~~).~~ Whenever ((he)) the director deems it necessary, the director may ((issue)) publish a new brand book. The director may collect moneys to recover the reasonable costs of publishing and distributing copies of the brand book.

NEW SECTION. Sec. 17. A new section is added to chapter 16.57 RCW to read as follows:

The director may adopt rules necessary to administer the recording and changing of ownership of brands.

Sec. 18. RCW 16.57.160 and 1991 c 110 s 3 are each amended to read as follows:

The director may ~~((by rule adopted subsequent to a public hearing designate))~~ adopt rules:

(1) Designating any point for mandatory ((brand)) inspection of cattle or horses or the furnishing of proof that cattle or horses passing or being transported through ((such)) the point((s)) have been ((brand)) inspected or identified and are lawfully being ((moved. Further, the director may stop vehicles carrying cattle to determine if such cattle are identified, branded, or accompanied by the form prescribed by the director under RCW 16.57.240 or a brand certificate issued by the department)) transported;

(2) Providing for self-inspection of fifteen head or less of cattle;

(3) Providing for issuance of individual horse and cattle identification certificates or other means of horse and cattle identification; and

(4) Designating the documents that constitute other satisfactory proof of ownership for cattle and horses. A bill of sale may not be designated as documenting satisfactory proof of ownership for cattle.

Sec. 19. RCW 16.57.165 and 1971 ex.s. c 135 s 6 are each amended to read as follows:

The director may, in order to reduce the cost of ((brand)) inspection to livestock owners, enter into agreements with any qualified county, municipal, or other local law enforcement agency, or qualified individuals for the purpose of performing ((brand)) livestock inspection in areas where ((department brand)) inspection by the director may not readily be available.

Sec. 20. RCW 16.57.170 and 1959 c 54 s 17 are each amended to read as follows:

The director may enter at any reasonable time any slaughterhouse or public livestock market to ~~((make an examination of the brands on))~~ inspect livestock or hides, and may enter at any reasonable time an establishment where hides are held to ~~((examine))~~ inspect them for brands or other means of identification. The director may enter any of these premises at any reasonable time to examine all books and records required by law in matters relating to ~~((brand inspection or other methods of))~~ livestock identification. For purposes of this section, "any reasonable time" means during regular business hours or during any working shift.

Sec. 21. RCW 16.57.180 and 1959 c 54 s 18 are each amended to read as follows:

Should the director be denied access to any premises or establishment where ~~((such))~~ access was sought for the purposes set forth in RCW 16.57.170, ~~((he))~~ the director may apply to any court of competent jurisdiction for a search warrant authorizing access to ~~((such))~~ the premises or establishment for ~~((said))~~ those purposes. The court may upon ~~((such))~~ application, issue the search warrant for the purposes requested.

Sec. 22. RCW 16.57.200 and 1959 c 54 s 20 are each amended to read as follows:

Any owner or his or her agent shall make ~~((the brand or brands on))~~ livestock being ~~((brand))~~ inspected readily ~~((visible))~~ accessible and shall

cooperate with the director to carry out ~~((such brand))~~ the inspection in a safe and expeditious manner.

Sec. 23. RCW 16.57.210 and 1959 c 54 s 21 are each amended to read as follows:

The director shall have authority to arrest ~~((any person))~~ without warrant anywhere in the state any person found in the act of, or whom ~~((he))~~ the director has reason to believe is guilty of, ~~((driving))~~ transporting, holding, selling, or slaughtering stolen livestock. Any ~~((such))~~ person arrested by the director shall be turned over to the county sheriff ~~((of the county))~~ or other local law enforcement officer where the arrest was made, as quickly as possible.

Sec. 24. RCW 16.57.220 and 1997 c 356 s 3 are each amended to read as follows:

~~((The director shall cause a charge to be made for all brand inspection of cattle and horses required under this chapter and rules adopted hereunder. Such charges shall be paid to the department by the owner or person in possession unless requested by the purchaser and then such brand inspection shall be paid by the purchaser requesting such brand inspection. Except as provided by rule, such inspection charges shall be due and payable at the time brand inspection is performed and shall be paid upon billing by the department and if not shall constitute a prior lien on the cattle or cattle hides or horses or horse hides brand inspected until such charge is paid. The director in order to best utilize the services of the department in performing brand inspection may establish schedules by days and hours when a brand inspector will be on duty to perform brand inspection at established inspection points. The fees for brand inspection performed at inspection points according to schedules established by the director shall be sixty cents per head for cattle and not more than two dollars and forty cents per head for horses as prescribed by the director subsequent to a hearing under chapter 34.05 RCW and in conformance with RCW 16.57.015. Fees for brand inspection of cattle and horses at points other than those designated by the director or not in accord with the schedules established by the director shall be based on a fee schedule not to exceed actual net cost to the department of performing the brand inspection service. For the purpose of this section, actual costs shall mean fifteen dollars per hour and the current mileage rate set by the office of financial management.))~~

(1) Except as provided for in RCW 16.65.090 and subsection (2), (3), or (4) of this section, the fee for livestock inspection is eighty-five cents per head for cattle and three dollars and fifty cents for horses or fifteen dollars per hour and the current mileage rate set by the office of financial management, whichever is greater.

(2) When a single inspection certificate issued for thirty or more horses belonging to one person, the fee for livestock inspection is two dollars per head or fifteen dollars per hour and the current mileage rate set by the office of financial management, whichever is greater.

(3) The fee for individual identification certificates is twenty dollars for an annual certificate and sixty dollars for a lifetime certificate or fifteen dollars per hour and the current mileage rate set by the office of financial management, whichever is greater. However, the fee for an annual certificate listing thirty or more animals belonging to one person is five dollars per head or fifteen dollars

per hour and the current mileage rate set by the office of financial management, whichever is greater. A lifetime certificate shall not be issued until the fee has been paid to the director.

(4) The minimum fee for the issuance of an inspection certificate by the director is five dollars. The minimum fee does not apply to livestock consigned to a public livestock market or special sale.

NEW SECTION. Sec. 25. A new section is added to chapter 16.57 RCW to read as follows:

(1) Any inspection fee shall be paid to the department by the owner or person in possession of the livestock unless the inspection is requested by the purchaser and then the fee shall be paid by the purchaser.

(2) Except as provided by rule, the inspection fee is due and payable at the time inspection is performed and shall be paid upon billing by the department and, if not, constitutes a prior lien on the cattle or cattle hides or horses or horse hides inspected until the fee is paid.

(3) A late fee of one and one-half percent per month shall be assessed on the unpaid balance against persons more than thirty days in arrears.

Sec. 26. RCW 16.57.230 and 1995 c 374 s 50 are each amended to read as follows:

No person shall collect or make a charge for ((brand)) inspection of livestock unless there has been an actual ((brand)) inspection of ((such)) the livestock.

Sec. 27. RCW 16.57.240 and 1995 c 374 s 51 are each amended to read as follows:

~~((Any person purchasing, selling, holding for sale, trading, bartering, transferring title, slaughtering, handling, or transporting cattle shall keep a record on forms prescribed by the director. Such forms))~~ (1) Certificates of permit, inspection certificates, and self-inspection certificates shall show the owner, number, ((speeie)) breed, sex, brand, or other method of identification of ((such)) the cattle or horses and any other necessary information required by the director. ((The original shall be kept for a period of three years or shall be furnished to the director upon demand or as prescribed by rule, one copy shall accompany the cattle to their destination and shall be subject to inspection at any time by the director or any peace officer or member of the state patrol: PROVIDED, That in the following instances only, cattle may be moved or transported within this state without being accompanied by an official certificate of permit, brand inspection certificate, bill of sale, or self-inspection slip:

~~(1) When such cattle are moved or transported upon lands under the exclusive control of the person moving or transporting such cattle;~~

~~(2) When such cattle are being moved or transported for temporary grazing or feeding purposes and have the registered brand of the person having or transporting such cattle.))~~

(2) The director may issue certificate of permit forms to any person on payment of a fee established by rule.

(3) Certificates of permit, inspection certificates, self-inspection certificates, or other satisfactory proof of ownership shall be kept by the owner and/or person in possession of any cattle and shall be furnished to the director or any peace officer upon demand.

(4) A self-inspection certificate is not valid if proof of ownership is not provided to the buyer for cattle bearing brands not recorded to the seller.

NEW SECTION. Sec. 28. A new section is added to chapter 16.57 RCW to read as follows:

Cattle may not be moved or transported within this state without being accompanied by a certificate of permit, inspection certificate, self-inspection certificate, or other satisfactory proof of ownership, except:

(1) When the cattle are moved or transported upon lands under the exclusive control of the person moving or transporting the cattle; or

(2) When the cattle are being moved or transported for temporary grazing or feeding purposes and have the recorded brand of the person having or transporting the cattle.

Certificates of permit, inspection certificates, self-inspection certificates, or other satisfactory proof of ownership accompanying cattle being moved or transported within this state shall be subject to inspection at any time by the director or any peace officer.

NEW SECTION. Sec. 29. A new section is added to chapter 16.57 RCW to read as follows:

The director or any peace officer may stop vehicles carrying cattle or horses to determine if the livestock being transported are accompanied by a certificate of permit, inspection certificate, self-inspection certificate, or other satisfactory proof of ownership, as determined by the director.

Sec. 30. RCW 16.57.260 and 1981 c 296 s 19 are each amended to read as follows:

It ~~((shall be))~~ is unlawful for any person to remove or cause to be removed or accept for removal from this state, any cattle or horses which are not accompanied at all times by an ~~((official brand))~~ inspection certificate ~~((issued by the director))~~ on such cattle or horses, except as provided ~~((in RCW 16.57.160))~~ by rule adopted under this chapter.

NEW SECTION. Sec. 31. A new section is added to chapter 16.57 RCW to read as follows:

It is unlawful for any person to fail to present an animal for inspection at any mandatory inspection point designated by the director by rule under this chapter.

Sec. 32. RCW 16.57.270 and 1959 c 54 s 27 are each amended to read as follows:

It ~~((shall be))~~ is unlawful for any person moving or transporting livestock in this state to refuse to assist the director or any peace officer in establishing the identity and ownership of ~~((such))~~ the livestock being moved or transported.

Sec. 33. RCW 16.57.275 and 1967 c 240 s 37 are each amended to read as follows:

Any cattle carcass, or primal part thereof, of any breed or age being transported in this state from other than a state or federal licensed and inspected slaughterhouse or common carrier hauling for ~~((such))~~ the slaughterhouse, shall be accompanied by a certificate of permit signed by the owner of ~~((such))~~ the carcass or primal part thereof and, if ~~((such))~~ the carcass or primal part is delivered to a facility custom handling ~~((such))~~ the carcasses or primal parts thereof, ~~((such))~~ the certificate of permit shall be deposited with the owner or

manager of ~~((such)) the~~ custom handling facility and ~~((such)) the~~ certificate of permit shall be retained for a period of one year and be made available to the department for inspection during ~~((reasonable business hours. The owner of such carcass or primal part thereof shall mail a copy of the said certificate of permit to the department within ten days of said transportation))~~ regular business hours or any working shift.

Sec. 34. RCW 16.57.280 and 1995 c 374 s 52 are each amended to read as follows:

No person shall knowingly have ~~((unlawful))~~ possession of any ~~((livestock))~~ cattle or horse marked with a recorded brand ~~((or tattoo))~~ of another person unless the:

(1) ~~((Such livestock))~~ Cattle or horse lawfully bears the person's own healed recorded brand; or

(2) ~~((Such livestock))~~ Cattle or horse is accompanied by a certificate of permit from the owner of the recorded brand ~~((or tattoo))~~; or

(3) ~~((Such livestock))~~ Cattle or horse is accompanied by ~~((a brand))~~ an inspection certificate; or

(4) ~~((Such))~~ Cattle is accompanied by a self-inspection ~~((ship))~~ certificate; or

(5) ~~((Such livestock))~~ Horse is accompanied by a bill of sale from the previous owner; or

(6) Cattle or horse is accompanied by ~~((a bill of sale from the previous owner or))~~ other satisfactory proof of ownership as designated in rule.

A violation of this section constitutes a gross misdemeanor ~~((punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.024)).~~

Sec. 35. RCW 16.57.290 and 1995 c 374 s 53 are each amended to read as follows:

~~((All unbranded cattle and horses and those bearing brands not recorded, in the current edition of this state's brand book, which are not accompanied by a certificate of permit, and those bearing brands recorded, in the current edition of this state's brand book, which are not accompanied by a certificate of permit signed by the owner of the brand))~~ All cattle and horses that are not accompanied by a certificate of permit, inspection certificate, self-inspection certificate, or other satisfactory proof of ownership when offered for sale and presented for inspection by the director, shall be ((sold)) impounded. If theft is suspected, the director shall immediately initiate an investigation. If theft is not suspected, the animal shall be sold and the proceeds retained by the director ((or the director's representative, unless other satisfactory proof of ownership is presented showing the person presenting them to be lawfully in possession)). Upon the sale of ~~((such)) the~~ cattle or horses, the director ~~((or the director's representative))~~ shall give the purchasers ~~((a bill of sale therefor, or, if theft is suspected, the cattle or horses may be impounded by the director or the director's representative))~~ an inspection certificate for the cattle or horses documenting their ownership.

Sec. 36. RCW 16.57.300 and 1989 c 286 s 24 are each amended to read as follows:

Except under section 37 of this act, the proceeds from the sale of cattle and horses ((as provided for)) when impounded under RCW 16.57.290, after paying

the cost thereof, shall be paid to the director, who shall make a record showing the brand or marks or other method of identification of the animals and the amount realized from the sale thereof. However, the proceeds from a sale of ~~((such))~~ the cattle or horses at a licensed public livestock market shall be held by the licensee for a reasonable period not to exceed thirty days to permit the consignor to establish ownership or the right to sell ~~((such))~~ the cattle or horses. If ~~((such))~~ the consignor fails to establish legal ownership or the right to sell ~~((such))~~ the cattle or horses, ~~((such))~~ the proceeds shall be paid to the director to be disposed of as any other stray proceeds.

NEW SECTION. Sec. 37. A new section is added to chapter 16.57 RCW to read as follows:

The proceeds from the sale of dairy breed cattle when impounded under RCW 16.57.290, and after paying the cost thereof, shall be paid to the seller if:

- (1) The cattle bears a brand that is not recorded in this state or any state where a reciprocal agreement is in place as provided under RCW 16.57.340;
- (2) There is no evidence of theft;
- (3) The director has posted the brand for at least ninety days at each licensed public livestock market in this state and any other state where the director provides for livestock inspection; and
- (4) No other person has established legal ownership of the cattle with the director.

The proceeds from the sale shall be held by the director until paid to the seller or other person as specified by the director. However, the proceeds from a sale of the cattle at a licensed public livestock market shall be held by the licensee.

Sec. 38. RCW 16.57.310 and 1959 c 54 s 31 are each amended to read as follows:

When a person has been notified by registered mail that animals bearing ~~((his))~~ the person's recorded brand have been sold by the director, ~~((he))~~ the person shall present to the director a claim on the proceeds within ~~((ten))~~ thirty days from the receipt of the notice or the director may decide that no claim exists.

Sec. 39. RCW 16.57.320 and 1991 c 110 s 6 are each amended to read as follows:

If, after the expiration of one year from the date of sale, the person presenting the animals for inspection has not provided the director with satisfactory proof of ownership, the proceeds from the sale shall be paid on the claim of the owner of the recorded brand. However, it shall be a gross misdemeanor for the owner of the recorded brand to knowingly accept such funds after he or she has sold, bartered or traded such animals to the claimant or any other person. ~~((A gross misdemeanor under this section is punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.021.))~~

Sec. 40. RCW 16.57.330 and 1959 c 54 s 33 are each amended to read as follows:

If, after the expiration of one year from the date of sale, no claim under RCW 16.57.310 is made or no satisfactory proof of ownership is provided under RCW 16.57.320, the money shall be credited to the department ~~((of agriculture))~~ to be expended in carrying out the provisions of this chapter.

Sec. 41. RCW 16.57.340 and 1959 c 54 s 34 are each amended to read as follows:

The director (~~((shall have))~~) has the authority to enter into reciprocal agreements with any or all states to prevent the theft, misappropriation, or loss of identification of livestock. The director may declare any livestock which is shipped or moved into this state from ~~((such))~~ those states estrays if ~~((such))~~ the livestock is not accompanied by the proper ~~((official brand))~~ inspection certificate or other ((such)) certificates required by the law of the state of origin of ~~((such))~~ the livestock. The director may hold ~~((such))~~ the livestock subject to all costs of holding or sell ~~((such))~~ the livestock and send the funds, after the deduction of the cost of ~~((such))~~ the sale, to the proper authority in the state of origin of ~~((such))~~ the livestock.

Sec. 42. RCW 16.57.360 and 1991 c 110 s 7 are each amended to read as follows:

The department is authorized to issue notices of and enforce civil infractions in the manner prescribed under chapter 7.80 RCW.

The violation of any provision of this chapter and/or rules ~~((and regulations))~~ adopted ~~((hereunder))~~ under this chapter shall constitute a class I civil infraction as provided under chapter 7.80 RCW unless otherwise specified herein.

Sec. 43. RCW 16.57.370 and 1959 c 54 s 37 are each amended to read as follows:

All fees collected under the provisions of this chapter shall be ~~((retained and))~~ deposited ~~((by the director to be used only for the enforcement))~~ in an account in the agricultural local fund and used to carry out the purposes of this chapter.

Sec. 44. RCW 16.57.400 and 1994 c 46 s 20 are each amended to read as follows:

~~((The director may provide by rules and regulations adopted pursuant to chapter 34.05 RCW for the issuance of))~~ Horses and cattle may be identified by individual ((horse and cattle)) identification certificates or other means of ((horse and cattle)) identification ((deemed appropriate)) authorized by the director. ~~((Such))~~ The certificates or other means of identification ((shall be)) are valid only for the use of the ~~((horse and cattle))~~ owner in whose name it is issued.

Horses and cattle identified pursuant to ~~((the provisions of))~~ this section ~~((and the rules and regulations adopted hereunder shall not be))~~ are only subject to ~~((brand))~~ inspection ~~((except when sold at points provided for in RCW 16.57.380. The director shall charge a fee for the certificates or other means of identification authorized pursuant to this section and no identification shall be issued until the director has received the fee. The schedule of fees shall be established in accordance with the provisions of chapter 34.05 RCW))~~ when the animal is consigned for sale.

Sec. 45. RCW 16.57.410 and 1993 c 354 s 11 are each amended to read as follows:

(1) No person may act as a registering agency without a permit issued by the ~~((department))~~ director. The director may issue a permit to any person ~~((or organization))~~ to act as a registering agency for the purpose of issuing permanent

identification symbols for horses in a manner prescribed by the director. Application for ~~((such))~~ a permit, or the renewal thereof by January 1 of each year, shall be on a form prescribed by the director, and accompanied by the proof of registration to be issued, any other documents required by the director, and a fee of ~~((one))~~ two hundred and fifty dollars.

(2) Each registering agency shall maintain a permanent record for each individual identification symbol. The record shall include, but need not be limited to, the name, address, and phone number of the horse owner and a general description of the horse. A copy of each permanent record shall be forwarded to the director, if requested by the director.

~~(3) Horses shall be examined for individual identification symbols ((shall be inspected as required for brands under RCW 16.57.220 and 16.57.380. Any horse)) when presented for inspection ((and bearing such a symbol, but not accompanied by proof of registration and certificate of permit, shall be sold as provided under RCW 16.57.290 through 16.57.330)).~~

(4) The director shall adopt ~~((such))~~ rules ~~((as are))~~ necessary ~~((for the effective administration of))~~ to administer this section ~~((pursuant to chapter 34.05 RCW)).~~

Sec. 46. RCW 16.58.020 and 1971 ex.s. c 181 s 2 are each amended to read as follows:

For the purpose of this chapter:

(1) "Certified feed lot" means any place, establishment, or facility commonly known as a commercial feed lot, cattle feed lot, or the like, which complies with all of the requirements of this chapter, and any ~~((regulations))~~ rules adopted ~~((pursuant to the provisions of))~~ under this chapter and which holds a valid license from the director ~~((as hereinafter provided)).~~

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

(3) "Director" means the director of the department or his or her duly authorized representative.

(4) "Licensee" means any persons licensed under the provisions of this chapter.

(5) "Person" means a natural person, individual, firm, partnership, corporation, company, society, and association, and every officer, agent or employee thereof. This term shall import either the singular or the plural as the case may be.

(6) "Livestock inspection" or "inspection" means the examination of livestock or livestock hides for brands or any means of identifying livestock or livestock hides including the examination of documents providing evidence of ownership.

(7) "Change of ownership" means the transfer of ownership from one person to another by the sale of livestock. It does not mean: A change in partners within a partnership; a change in members within an association or a society; or the sale of stock within a corporation, company, or association.

(8) "Direct to slaughter" means the delivery of livestock to a slaughter plant within ten days of the sale of the cattle to the slaughter plant.

Sec. 47. RCW 16.58.030 and 1971 ex.s. c 181 s 3 are each amended to read as follows:

The director may adopt ~~((such)) those~~ rules ~~((and regulations))~~ as are necessary to carry out the purpose of this chapter. ~~((The adoption of such rules shall be subject to the provisions of this chapter and rules and regulations adopted hereunder.))~~ No person shall interfere with the director when he or she is performing or carrying out any duties imposed upon ~~((him)) the director~~ by this chapter or rules ~~((and regulations))~~ adopted ~~((hereunder))~~ under this chapter.

Sec. 48. RCW 16.58.040 and 1971 ex.s. c 181 s 4 are each amended to read as follows:

~~((On or after August 9, 1971,))~~ Any person desiring to engage in the business of operating one or more certified feed lots shall obtain an annual license from the director for ~~((such)) that~~ purpose. The application for a license shall be on a form prescribed by the director and shall include the following:

- (1) The number of certified feed lots the applicant intends to operate and their exact location and mailing address;
- (2) The legal description of the land on which the certified feed lot will be situated;
- (3) A complete description of the facilities used for feeding and handling of cattle at each certified feed lot;
- (4) The estimated number of cattle which can be handled for feeding purposes at each ~~((such))~~ certified feed lot; and
- (5) Any other information necessary to carry out the purpose and provisions of this chapter and rules ~~((or regulations))~~ adopted ~~((hereunder))~~ under this chapter.

Sec. 49. RCW 16.58.050 and 1997 c 356 s 5 are each amended to read as follows:

(1) The application for an annual license to engage in the business of operating one or more certified feed lots shall be accompanied by a license fee of ~~((six))~~ eight hundred fifty dollars.

(2) Upon approval of the application by the director and compliance with the provisions of this chapter and rules adopted ~~((hereunder))~~ under this chapter, the applicant shall be issued a license or ~~((a))~~ license renewal ~~((thereof)).~~ The director shall conduct an inspection of all cattle and their corresponding ownership documents prior to issuing an original license. The inspection fee is the higher of the current inspection fee per head of cattle or time and mileage as set forth in RCW 16.57.220.

Sec. 50. RCW 16.58.060 and 1991 c 109 s 10 are each amended to read as follows:

~~((The director shall establish by rule an expiration date or dates for all certified feed lot licenses. License fees shall be prorated where necessary to accommodate staggering of expiration dates of a license or licenses.))~~ Certified feed lot licenses expire on June 30th following the date of issuance. If ~~((an application for renewal of a certified feed lot license is not received by the department per the date required by rule or should))~~ a person fails, refuses, or neglects to apply for renewal of a ~~((preexisting))~~ license ~~((on or before the date of expiration))~~ by June 30th, ((that)) the person's license shall expire. To reinstate a license, the person shall be assessed ((an additional)) a late fee of twenty-five dollars which shall be added to the regular license fee and shall be paid before the director may issue a license to the applicant.

Sec. 51. RCW 16.58.070 and 1989 c 175 s 54 are each amended to read as follows:

The director is authorized to deny, suspend, or revoke a license in ~~((accord))~~ accordance with the provisions of chapter 34.05 RCW if he or she finds that there has been a failure to comply with any requirement of this chapter or rules ~~((and regulations))~~ adopted ~~((hereunder))~~ under this chapter. Hearings for the revocation, suspension, or denial of a license shall be subject to the provisions of chapter 34.05 RCW ~~((concerning adjudicative proceedings))~~.

Sec. 52. RCW 16.58.080 and 1971 ex.s. c 181 s 8 are each amended to read as follows:

Every certified feed lot shall be equipped with a facility or a livestock pen, approved by the director as to location and construction within the ~~((said))~~ feed lot so that necessary ~~((brand))~~ livestock inspection can be carried on in a proper, expeditious and safe manner. Each licensee shall furnish the director with sufficient help necessary to carry out ~~((brand))~~ inspections in the manner set forth above.

Sec. 53. RCW 16.58.095 and 1991 c 109 s 11 are each amended to read as follows:

All cattle entering or reentering a certified feed lot must be inspected ~~((for brands))~~ upon entry, unless they are accompanied by ~~((a brand))~~ an inspection certificate issued by the director, or any other agency authorized in any state or Canadian province by law to issue ~~((such))~~ a certificate. Licensees shall report a discrepancy between cattle entering or reentering a certified feed lot and the ~~((brand))~~ inspection certificate accompanying the cattle to the nearest ~~((brand))~~ inspector immediately. A discrepancy may require an inspection of all the cattle entering or reentering the lot, except as may otherwise be provided by rule.

Sec. 54. RCW 16.58.100 and 1979 c 81 s 3 are each amended to read as follows:

The director shall ~~((each year))~~ conduct audits of the cattle received, fed, handled, and shipped by the licensee at each certified feed lot. ~~((Such))~~ These audits shall be for the purpose of determining if ~~((such))~~ the cattle correlate with the ~~((brand))~~ inspection certificates issued in their behalf and that the certificate of assurance furnished the director by the licensee correlates with his or her assurance that ~~((brand))~~ inspected cattle were not commingled with uninspected cattle.

Sec. 55. RCW 16.58.110 and 1991 c 109 s 12 are each amended to read as follows:

All certified feed lots shall furnish the director with records as requested by ~~((him from time to time))~~ the director on a monthly basis on all cattle entering or on feed in ~~((said))~~ the certified feed lots and dispersed therefrom. These records must include a copy of each inspection certificate received and an itemized listing of all cattle entering and leaving the feed lot. All ~~((such))~~ requested records shall be subject to examination by the director for the purpose of maintaining the integrity of the identity of all ~~((such))~~ the cattle. The director may make the examinations only during regular business hours or any working shift except in an emergency to protect the interest of the owners of ~~((such))~~ the cattle.

Sec. 56. RCW 16.58.130 and 1997 c 356 s 7 are each amended to read as follows:

Each licensee shall pay to the director a fee of ~~((twelve))~~ seventeen cents for each head of cattle handled through the licensee's feed lot. Payment of ~~((such))~~ the fee shall be made by the licensee on a monthly basis. Failure to pay as required shall be grounds for suspension or revocation of a certified feed lot license. ~~((Further,))~~ The director shall not renew a certified feed lot license if a licensee has failed to make prompt and timely payments.

Sec. 57. RCW 16.58.140 and 1979 c 81 s 5 are each amended to read as follows:

All fees provided for in this chapter shall be ~~((retained by the director for the purpose of))~~ deposited in an account in the agricultural local fund and used for enforcing and carrying out the purpose and provisions of this chapter or chapter 16.57 RCW.

Sec. 58. RCW 16.58.150 and 1971 ex.s. c 181 s 15 are each amended to read as follows:

No ~~((brand))~~ inspection shall be required when cattle are moved or transferred from one certified feed lot to another ~~((or the transfer of cattle))~~ when they are accompanied by satisfactory proof of ownership and there is no change of ownership or from a certified feed lot to a point within this state, or out of state where this state maintains ((brand)) inspection, for the purpose of immediate slaughter. Any change of ownership within a certified feed lot requires a livestock inspection unless the cattle are sent direct to slaughter. An inspection fee as provided for in RCW 16.57.220 is payable to the director by the seller of the cattle or through the licensee as an agent. Upon notice by the director to suspend a license under this section, a person may request a hearing under chapter 34.05 RCW.

Sec. 59. RCW 16.58.160 and 1991 c 109 s 15 are each amended to read as follows:

The director may, when a certified feed lot's conditions become such that the integrity of reports or records of the cattle ~~((therein))~~ in that feed lot becomes doubtful, immediately suspend ~~((such))~~ the certified feed lot's license until such time as the director can conduct an investigation to ~~((carry out the purpose of this chapter))~~ verify the condition of reports or records.

Upon notice by the director to suspend a license under this section, a person may request a hearing under chapter 34.05 RCW.

Sec. 60. RCW 16.58.170 and 1971 ex.s. c 181 s 17 are each amended to read as follows:

Any person who violates the provisions of this chapter or any rule ~~((or regulation))~~ adopted ((hereunder)) under this chapter shall be guilty of a misdemeanor and shall be guilty of a gross misdemeanor for any second or subsequent violation: PROVIDED, That any offense committed more than five years after a previous conviction shall be considered a first offense.

NEW SECTION. Sec. 61. A new section is added to chapter 16.65 RCW to read as follows:

The purpose of this chapter is to ensure the orderly marketing of livestock, to ensure the financial stability of public livestock markets, and to protect persons who consign livestock to markets and sales.

Sec. 62. RCW 16.65.010 and 1983 c 298 s 1 are each amended to read as follows:

For the purposes of this chapter:

(1) The term "public livestock market" means any place, establishment or facility commonly known as a "public livestock market", "livestock auction market", "livestock sales ring", yards selling on commission, or the like, conducted or operated for compensation or profit as a public livestock market, consisting of pens or other enclosures, and their appurtenances in which livestock is received, held, sold, kept for sale or shipment. The term does not include the operation of a person licensed under this chapter to operate a special open consignment horse sale.

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

(3) "Director" means the director of the department or his or her duly authorized representative.

(4) "Licensee" means any person licensed under the provisions of this chapter.

(5) "Livestock" includes horses, mules, burros, cattle, sheep, swine, and goats.

(6) "Person" means a natural person, individual, firm, partnership, corporation, company, society, and association, and every officer, agent or employee thereof. This term shall import either the singular or the plural as the case may be.

(7) "Stockyard" means any place, establishment, or facility commonly known as a stockyard consisting of pens or other enclosures and their appurtenances in which livestock services such as feeding, watering, weighing, sorting, receiving and shipping are offered to the public: PROVIDED, That stockyard shall not include any facilities where livestock is offered for sale at public auction, feed lots, or quarantined registered feed lots.

(8) "Packer" means any person engaged in the business of slaughtering, manufacturing, preparing meat or meat products for sale, marketing meat, meat food products or livestock products.

~~(9) ("Deputy state veterinarian" means a graduate veterinarian authorized to practice in the state of Washington and appointed or deputized by the director as his duly authorized representative.~~

~~(10))~~ "Special open consignment horse sale" means a sale conducted by a person other than the operator of a public livestock market which is limited to the consignment of horses and donkeys only for sale on an occasional and seasonal basis.

(10) "Livestock inspection" or "inspection" means the examination of livestock or livestock hides for brands or any means of identifying livestock or livestock hides including the examination of documents providing evidence of ownership.

Sec. 63. RCW 16.65.015 and 1983 c 298 s 2 are each amended to read as follows:

(1) Except under subsection (2) of this section, this chapter does not apply to:

~~((+))~~ (a) A farmer selling his or her own livestock ((on the farmer's own premises by auction or any other method)).

~~((2))~~ (b) A farmers' cooperative association or an association of livestock breeders when any class of their own livestock is assembled and offered for sale at a special sale ~~((on an occasional and seasonal basis))~~ under the association's management and responsibility ~~((, and the special sale has been approved by the director in writing. However, the special sale shall be subject to brand and health inspection requirements as provided in this chapter for sales at public livestock markets))~~.

(c) A youth livestock organization such as 4-H, FFA, or other junior livestock group, when any class of livestock owned by the youth members is assembled and offered for sale at a special sale under the organization's management and responsibility.

(2) Any farmer, farmers' cooperative association, livestock breeders' association, or youth livestock organization under subsection (1) of this section, may, upon obtaining a permit from the director, conduct a public sale of his or her or its members livestock on an occasional or seasonal basis. Application for the permit shall be in writing to the director for his or her approval at least fifteen days before the proposed public sale is scheduled to be held. The application must be complete and accompanied by a nonrefundable fee of fifty dollars for each sale, except that the fee is waived for youth livestock organizations. The sale is subject to the livestock and health inspection requirements as provided in this chapter for sales at public livestock markets, unless otherwise prescribed by rule.

Sec. 64. RCW 16.65.020 and 1983 c 298 s 5 are each amended to read as follows:

Public livestock markets and special open consignment horse sales shall be under the direction and supervision of the director, and the director ~~((, but not his duly authorized representative,))~~ may adopt ~~((such))~~ those rules ~~((and regulations))~~ as are necessary to carry out the purpose of this chapter. It shall be the duty of the director to enforce and carry out the provisions of this chapter and rules ~~((and regulations))~~ adopted ~~((hereunder))~~ under this chapter. No person shall interfere with the director when he or she is performing or carrying out any duties imposed ~~((upon him))~~ by this chapter or rules ~~((and regulations))~~ adopted ~~((hereunder))~~ under this chapter.

Sec. 65. RCW 16.65.030 and 1995 c 374 s 54 are each amended to read as follows:

(1) ~~((On and after June 10, 1959,))~~ No person shall operate a public livestock market without first having obtained a license from the director. Application for ~~((such))~~ a license shall be in writing on forms prescribed by the director, and shall include the following:

(a) A nonrefundable original license application fee of ~~((fifteen hundred))~~ two thousand dollars.

(b) A legal description of the property upon which the public livestock market shall be located.

(c) A complete description and blueprints or plans of the public livestock market physical plant, yards, pens, and all facilities the applicant proposes to use in the operation of such public livestock market.

(d) ~~((A detailed statement showing all the assets and liabilities of the applicant which must reflect a sufficient net worth to construct or operate a~~

~~public livestock market.)) A financial statement, audited by a certified or licensed public accountant, to determine whether or not the applicant meets the minimum net worth requirements, established by the director by rule, to construct and/or operate a public livestock market. If the applicant is a subsidiary of a larger company, corporation, society, or cooperative association, both the parent company and the subsidiary company must submit a financial statement to determine whether or not the applicant meets the minimum net worth requirements. All financial statement information required by this subsection is confidential information and not subject to public disclosure.~~

(e) The schedule of rates and charges the applicant proposes to impose on the owners of livestock for services rendered in the operation of such livestock market.

(f) The weekly or monthly sales day or days on which the applicant proposes to operate his or her public livestock market sales and the class of livestock that may be sold on these days.

(g) Projected source and quantity of livestock(~~, by county,~~) anticipated to be handled.

(h) Projected ~~((income and expense statements for))~~ gross dollar volume of business to be carried on, at, or through the public livestock market during the first year's operation.

(i) Facts upon which ~~((are))~~ is based the conclusion that the trade area and the livestock industry will benefit because of the proposed market.

(j) ~~((Such))~~ Other information as the director may ~~((reasonably))~~ require by rule.

~~(2) ((The director shall, after public hearing as provided by chapter 34.05 RCW, grant or deny an application for original license for a public livestock market after considering evidence and testimony relating to all of the requirements of this section and giving reasonable consideration at the same hearing to:~~

~~(a) Benefits to the livestock industry to be derived from the establishment and operation of the public livestock market proposed in the application; and~~

~~(b) The present market services elsewhere available to the trade area proposed to be served.~~

~~(3) Applications for renewal under RCW 16.65.040 shall include all information under subsection (1) of this section, except subsection (1)(a) of this section.)) If the director determines that the applicant meets all the requirements of subsection (1) of this section, the director shall conduct a public hearing as provided by chapter 34.05 RCW, and shall grant or deny an application for original license for a public livestock market after considering evidence and testimony relating to the requirements of this section and giving reasonable consideration to:~~

(a) Benefits to the livestock industry to be derived from the establishment and operation of the public livestock market proposed in the application;

(b) The geographical area that will be affected;

(c) The conflict, if any, with sales days already allocated in the area;

(d) The amount and class of livestock available for marketing in the area;

(e) Buyers available to the proposed market; and

(f) Any other conditions affecting the orderly marketing of livestock.

(3) Before a license is issued to operate a public livestock market, the applicant must:

(a) Execute and deliver to the director a surety bond as required under RCW 16.65.200;

(b) Provide evidence of a custodial account, as required under RCW 16.65.140, for the consignor's proceeds;

(c) Pay the appropriate license fee; and

(d) Provide other information required under this chapter and rules adopted under this chapter.

Sec. 66. RCW 16.65.037 and 1997 c 356 s 9 are each amended to read as follows:

~~(1) ((Upon the approval of the application by the director and compliance with the provisions of this chapter, the applicant shall be issued a license or renewal thereof.)) Any license issued under the provisions of this chapter shall only be valid at the location and for the sales day or days for which the license was issued.~~

~~(2) The license fee shall be based on the average gross sales volume per official sales day of ~~((that))~~ a market~~((:~~~~

~~(a) Markets with an average gross sales volume up to and including ten thousand dollars, a one hundred twenty dollar fee;~~

~~(b) Markets with an average gross sales volume over ten thousand dollars and up to and including fifty thousand dollars, a two hundred forty dollar fee; and~~

~~(c) Markets with an average gross sales volume over fifty thousand dollars, a three hundred sixty dollar fee.~~

~~The fees for public market licenses shall be set by the director by rule subsequent to a hearing under chapter 34.05 RCW and in conformance with RCW 16.57.015)) in the previous twelve months or, for a new market, the projected average gross sales per official sales day of the market during its first year's operation.~~

(a) The license fee for markets with an average gross sales volume up to and including ten thousand dollars is one hundred fifty dollars.

(b) The license fee for markets with an average gross sales volume over ten thousand dollars and up to and including fifty thousand dollars is three hundred dollars.

(c) The license fee for markets with an average gross sales volume over fifty thousand dollars is four hundred fifty dollars.

(3) Any applicant operating more than one public livestock market shall make a separate application for a license to operate each ~~((such))~~ public livestock market, and each ~~((such))~~ application shall be accompanied by the appropriate ~~((application))~~ license fee.

Sec. 67. RCW 16.65.040 and 1983 c 298 s 6 are each amended to read as follows:

(1) All public livestock market licenses provided for in this chapter ~~((shall))~~ expire on March 1st subsequent to the date of issue.

(2) Application for renewal of a public livestock market license shall be in writing on forms prescribed by the director, and shall include:

(a) All information under RCW 16.65.030(1) (d), (e), and (f);

(b) The gross dollar volume of business carried on, at, or through the applicant's public livestock market in the twelve-month period prior to the application for renewal of the license:

(c) Other information as the director may require by rule; and

(d) The appropriate license fee.

(3) If any person ((who)) fails, refuses, or neglects to apply for a renewal of a preexisting license ((on or before the date of expiration)) by March 1st, the person's license shall expire. To reinstate a license, the person shall pay a penalty of twenty-five dollars, which shall be added to the regular license fee, before ((such)) the license may be ((renewed)) reinstated by the director.

Sec. 68. RCW 16.65.042 and 1983 c 298 s 3 are each amended to read as follows:

(1) A person shall not operate a special open consignment horse sale without first obtaining a license from the director. The application for the license shall include:

~~(a) ((A detailed statement showing all of the assets and liabilities of the applicant;~~

~~((b)))~~ (b)) The schedule of rates and charges the applicant proposes to impose on the owners of horses for services rendered in the operation of the horse sale;

~~((c)))~~ (b) The specific date and exact location of the proposed sale;

~~((d)))~~ (c) Projected quantity and approximate value of horses to be handled;

and

~~((e)))~~ (d) Such other information as the director may reasonably require.

(2) The application shall be accompanied by a license fee of one hundred dollars. Upon the approval of the application by the director and compliance with this chapter, the applicant shall be issued a license. A special open consignment horse sale license is valid only for the specific date or dates and exact location for which the license was issued.

Sec. 69. RCW 16.65.050 and 1959 c 107 s 5 are each amended to read as follows:

All fees provided for under this chapter shall be ~~((retained by the director))~~ deposited in an account in the agricultural local fund and used for ((the purpose of)) enforcing and carrying out the purpose and provisions of this chapter and chapter 16.57 RCW.

Sec. 70. RCW 16.65.080 and 1985 c 415 s 9 are each amended to read as follows:

(1) The director ~~((is authorized to))~~ may deny, suspend, or revoke a license ~~((in the manner prescribed herein.))~~ when ~~((there are findings by))~~ the director finds that ((any)) a licensee (a) has ~~((been guilty of fraud or misrepresentation as to))~~ misrepresented titles, charges, numbers, brands, weights, proceeds of sale, or ownership of livestock; (b) has attempted payment to a consignor or the department by a check the licensee knows not to be backed by sufficient funds to cover such check; (c) has violated any of the provisions of this chapter or rules ~~((and regulations))~~ adopted ((hereunder)) under this chapter; (d) has violated any laws of the state that require ~~((health or brand))~~ inspection of livestock for health or ownership purposes; (e) has violated any condition of the bond, as provided in this chapter. ~~((However, the director may deny a license if the applicant refuses~~

to accept the sales day or days allocated to him under the provisions of this chapter.)

(2) ~~(In all proceedings for revocation, suspension, or denial of a license the licensee or applicant shall be given an opportunity to be heard in regard to such revocation, suspension or denial of a license. The director shall give the licensee or applicant twenty days' notice in writing and such notice shall specify the charges or reasons for such revocation, suspension or denial. The notice shall also state the date, time and place where such hearing is to be held. Such hearings shall be held in the city where the licensee has his principal place of business, or where the applicant resides, unless some other place be agreed upon by the parties, and the defendant may be represented by counsel.)~~ Upon notice by the director to deny, revoke, or suspend a license, a person may request a hearing under chapter 34.05 RCW.

(3) The director may issue subpoenas to compel the attendance of witnesses, and/or the production of books or documents anywhere in the state. The applicant or licensee shall have opportunity to be heard, and may have such subpoenas issued as he or she desires. Subpoenas shall be served in the same manner as in civil cases in the superior court. Witnesses shall testify under oath which may be administered by the director. Testimony shall be recorded, and may be taken by deposition under such rules as the director may prescribe.

~~((4) The director shall hear and determine the charges, make findings and conclusions upon the evidence produced, and file them in his office, together with a record of all of the evidence, and serve upon the accused a copy of such findings and conclusions.))~~

Sec. 71. RCW 16.65.090 and 1997 c 356 s 11 are each amended to read as follows:

The director shall provide for ~~((brand))~~ livestock inspection. When ~~((such brand))~~ livestock inspection is required the licensee shall collect from the consignor and pay to the department an inspection fee, as provided by law, ~~((a fee for brand inspection))~~ for each animal ~~((consigned to the public livestock market or special open consignment horse sale))~~ inspected. However, if in any one sale day the total fees collected for ~~((brand))~~ inspection do not exceed ~~((seventy-two))~~ one hundred dollars, then ~~((such))~~ the licensee shall pay ~~((seventy-two))~~ one hundred dollars for ~~((such brand))~~ the inspection ~~((or as much thereof as the director may prescribe))~~ services.

Sec. 72. RCW 16.65.100 and 1983 c 298 s 9 are each amended to read as follows:

The licensee of each public livestock market or special open consignment horse sale shall collect from any purchaser of livestock requesting ~~((brand))~~ inspection a fee as provided by law for each animal inspected. ~~((Such))~~ This fee shall be in addition to the fee charged to the consignor for ~~((brand))~~ inspection and shall not apply to the minimum fee chargeable to the licensee.

Sec. 73. RCW 16.65.140 and 1971 ex.s. c 192 s 4 are each amended to read as follows:

Each licensee shall establish a custodial account for consignor's proceeds. All funds derived from the sale of livestock handled on a commission or agency basis shall be deposited in that account. ~~((Such))~~ The account shall be drawn on only for the payment of net proceeds to the consignor, or ~~((such))~~ other person or

persons of whom ~~((such))~~ the licensee has knowledge is entitled to ~~((such))~~ the proceeds, and to obtain from ~~((such))~~ those proceeds only the sums due the licensee as compensation for ~~((his))~~ the services as are set out in ~~((his))~~ the posted tariffs, and for ~~((such))~~ the sums as are necessary to pay all legal charges against the consignment of livestock which the licensee in ~~((his))~~ the capacity as agent is required to pay for on behalf of the consignor or shipper. The licensee in each case shall keep ~~((such))~~ those accounts and records that will at all times disclose the names of the consignors and the amount due and payable to each from the funds in the custodial account for consignor's proceeds. The licensee shall maintain the custodial account for consignor's proceeds in a manner that will expedite examination by the director and reflect compliance with the requirements of this section.

Sec. 74. RCW 16.65.170 and 1967 c 192 s 1 are each amended to read as follows:

The licensee shall keep accurate records which shall be available for inspection to all parties directly interested therein, and ~~((such))~~ the records shall contain the following information:

- (1) The date on which each consignment of livestock was received and sold.
 - (2) The name and address of the buyer and seller of ~~((such))~~ the livestock.
 - (3) The number and species of livestock received and sold.
 - (4) The marks and brands on ~~((such))~~ the livestock ~~((as supplied by a brand inspector))~~.
 - (5) All statements of warranty or representations of title material to, or upon which, any ~~((such))~~ sale is consummated.
 - (6) The gross selling price of ~~((such))~~ the livestock with a detailed list of all charges deducted therefrom.
- ~~((Such))~~ These records shall be kept by the licensee for one year subsequent to the receipt of such livestock.

Sec. 75. RCW 16.65.190 and 1983 c 298 s 12 are each amended to read as follows:

No person shall ~~((hereafter))~~ operate a public livestock market or special open consignment horse sale unless ~~((such))~~ that person has filed a schedule with the application for license to operate ~~((such))~~ a public livestock market or special open consignment horse sale. ~~((Such))~~ The schedule shall show all rates and charges for stockyard services to be furnished ~~((by such person))~~ at ~~((such))~~ the public livestock market or special open consignment horse sale.

(1) Schedules shall be posted conspicuously at the public livestock market or special open consignment horse sale, and shall plainly state all ~~((such))~~ rates and charges in such detail as the director may require, and shall state any rules ~~((and regulations))~~ which in any manner change, affect, or determine any part of the aggregate of ~~((such))~~ the rates or charges, or the value of the stockyard services furnished. The director may determine and prescribe the form and manner in which ~~((such))~~ the schedule shall be prepared, arranged, and posted.

(2) No changes shall be made in rates or charges so filed and published except after thirty days' notice to the director and to the public filed and posted as ~~((aforesaid))~~ set forth under this section, which shall plainly state the changes proposed to be made and the time ~~((such))~~ the changes will go into effect.

(3) No licensee shall charge, demand, or collect a greater or a lesser or a different compensation for ~~((such)) a~~ service than the rates and charges specified in the schedule filed with the director and in effect at the time; nor shall a licensee refund or remit in any manner any portion of the rates or charges so specified (but this shall not prohibit a cooperative association of producers from properly returning to its members, on a patronage basis, its excess earnings on their livestock); nor shall a licensee extend to any person at ~~((such)) a~~ public livestock market or special open consignment horse sale any stockyard services except ~~((such)) as~~ are specified in ~~((such)) the~~ schedule.

Sec. 76. RCW 16.65.200 and 1983 c 298 s 13 are each amended to read as follows:

Before the license is issued to operate a public livestock market or special open consignment horse sale, the applicant shall execute and deliver to the director a surety bond in a sum as herein provided for, executed by the applicant as principal and by a surety company qualified and authorized to do business in this state as surety. ~~((Said)) The~~ bond shall be a standard form and approved by the director as to terms and conditions. ~~((Said)) The~~ bond shall be conditioned that the principal will not commit any fraudulent act and will comply with the provisions of this chapter and the rules ~~((and/or regulations))~~ adopted ~~((hereunder. Said)) under this chapter.~~ The bond shall be to the state in favor of every consignor and/or vendor creditor whose livestock was handled or sold through or at the licensee's public livestock market or special open consignment horse sale: PROVIDED, That if ~~((such)) the~~ applicant is bonded as a market agency under the provisions of the packers and stockyards act, (7 U.S.C. 181) as amended, on March 20, 1961, in a sum equal to or greater than the sum required under the provisions of this chapter, and ~~((such)) the~~ applicant furnishes the director with a bond approved by the United States secretary of agriculture ~~((naming the department as trustee)),~~ the director may accept ~~((such)) the~~ bond and its method of termination in lieu of the bond provided for herein and issue a license if ~~((such)) the~~ applicant meets all the other requirements of this chapter.

The total and aggregate liability of the surety for all claims upon the bond shall be limited to the face of ~~((such)) the~~ bond. Every bond filed with and approved by the director shall, without the necessity of periodic renewal, remain in force and effect until ~~((such time as))~~ the license of the licensee is revoked for cause or otherwise canceled. The surety on a bond, as provided herein, shall be released and discharged from all liability to the state accruing on ~~((such)) the~~ bond upon compliance with the provisions of RCW 19.72.110 concerning notice and proof of service, ~~((as enacted or hereafter amended,))~~ but this shall not operate to relieve, release, or discharge the surety from any liability already accrued or which shall accrue (due and to become due hereunder) before the expiration period provided for in RCW 19.72.110 concerning notice and proof of service ~~((as enacted or hereafter amended)),~~ and unless the principal shall before the expiration of ~~((such)) this~~ period, file a new bond, the director shall ~~((forthwith)) immediately~~ cancel the principal's license.

Sec. 77. RCW 16.65.235 and 1973 c 142 s 3 are each amended to read as follows:

In lieu of the surety bond required under the provisions of this chapter, an applicant or licensee may file with the director a deposit consisting of cash or

other security acceptable to the director. The director may adopt rules ~~((and regulations))~~ necessary for the administration of such security.

Sec. 78. RCW 16.65.260 and 1983 c 298 s 14 are each amended to read as follows:

In case of failure by a licensee to pay amounts due a vendor or consignor creditor whose livestock was handled or sold through or at the licensee's public livestock market or special open consignment horse sale, as evidenced by a verified complaint filed with the director, the director may proceed ~~((forthwith))~~ immediately to ascertain the names and addresses of all vendor or consignor creditors of ~~((such))~~ the licensee, together with the amounts due and owing to them and each of them by ~~((such))~~ the licensee, and shall request all ~~((such))~~ vendor and consignor creditors to file a verified statement of their respective claims with the director. ~~((Such))~~ This request shall be addressed to each known vendor or consignor creditor at his or her last known address.

Sec. 79. RCW 16.65.270 and 1959 c 107 s 27 are each amended to read as follows:

If a vendor or consignor creditor so addressed fails, refuses or neglects to file in the office of the director his or her verified claim as requested by the director within sixty days from the date of such request, the director shall ~~((thereupon))~~ be relieved of further duty or action ~~((hereunder))~~ on behalf of ~~((said))~~ the producer or consignor creditor.

Sec. 80. RCW 16.65.280 and 1959 c 107 s 28 are each amended to read as follows:

Where by reason of the absence of records, or other circumstances making it impossible or unreasonable for the director to ascertain the names and addresses of all ~~((said))~~ vendor and consignor creditors, the director, after exerting due diligence and making reasonable inquiry to secure ~~((said))~~ the information from all reasonable and available sources, may make demand on ~~((said))~~ the bond on the basis of information then in his or her possession, and thereafter shall not be liable or responsible for claims or the handling of claims which may subsequently appear or be discovered.

Sec. 81. RCW 16.65.300 and 1959 c 107 s 30 are each amended to read as follows:

Upon the refusal of the surety company to pay the demand, the director may ~~((thereupon))~~ bring an action on the bond in behalf of ~~((said))~~ vendor and consignor creditors. Upon any action being commenced on ~~((said))~~ the bond, the director may require the filing of a new bond. Immediately upon the recovery in any action on ~~((such))~~ the bond ~~((such))~~ the licensee shall file a new bond. Upon failure to file the ~~((same))~~ new bond within ten days, ~~((in either case,))~~ such a failure shall constitute grounds for the suspension or revocation of ~~((his))~~ the license.

Sec. 82. RCW 16.65.340 and 1967 c 192 s 2 are each amended to read as follows:

The director shall, when livestock is sold, traded, exchanged, or handled at or through a public livestock market, require such testing, treating, identifying, examining and record keeping of such livestock by a ~~((deputy))~~ Washington state licensed and accredited veterinarian employed by the market as in the director's judgment may be necessary to prevent the spread of brucellosis,

tuberculosis, paratuberculosis, (~~hog cholera~~) pseudorabies, or any other infectious, contagious, or communicable disease among the livestock of this state. The state veterinarian or his or her authorized representative may conduct additional testing and examinations for the same purpose.

Sec. 83. RCW 16.65.350 and 1959 c 107 s 35 are each amended to read as follows:

~~((1) The director shall perform all tests and make all examinations required under the provisions of this chapter and rules and regulations adopted hereunder. PROVIDED, That veterinary inspectors of the United States department of agriculture may be appointed by the director to make such examinations and tests as are provided for in this chapter without bond or compensation, and shall have the same authority and power in this state as a deputy state veterinarian.~~

~~((2)) The director shall ((have the responsibility for the direction and control of)) adopt rules regarding sanitary practices ~~((and))~~, health practices and standards, and ~~((for))~~ the examination of animals at public livestock markets. ~~((The deputy state veterinarian at any such public livestock market shall notify the licensee or his managing agent, in writing, of insanitary practices or conditions. Such deputy state veterinarian shall notify the director if the improper sanitary practices or conditions are not corrected within the time specified. The director shall investigate and upon finding such report correct shall take appropriate action to hold a hearing on the suspension or revocation of the licensee's license.))~~~~

Sec. 84. RCW 16.65.380 and 1959 c 107 s 38 are each amended to read as follows:

Public livestock market facilities shall include adequate space and facilities necessary for ~~((deputy))~~ market, federal, or state veterinarians to properly carry out their functions as prescribed by law and rules ~~((and regulations))~~ adopted ~~((hereunder))~~ under law or as prescribed by applicable federal law or regulation.

Sec. 85. RCW 16.65.390 and 1959 c 107 s 39 are each amended to read as follows:

Public livestock market facilities shall include space and facilities necessary for ~~((brand))~~ livestock inspectors and veterinarians to properly carry out their duties, as provided by law and rules ~~((and regulations))~~ adopted ~~((hereunder))~~ under law, in a safe and expeditious manner.

Sec. 86. RCW 16.65.400 and 1983 c 298 s 15 are each amended to read as follows:

(1) Each public livestock market licensee shall maintain and operate approved weighing facilities for the weighing of livestock at such licensee's public livestock market.

(2) All dial scales used by the licensee shall be of adequate size to be readily visible to all interested parties and shall be equipped with a mechanical weight recorder.

(3) All beam scales used by the licensee shall be equipped with a balance indicator, a weigh beam and a mechanical weight recorder, all readily visible to all interested parties.

(4) All scales used by the licensee shall be checked for balance at short intervals during the process of selling and immediately prior to the beginning of each sale day.

(5) The scale ticket shall have the weights mechanically imprinted upon ~~((such))~~ the tickets when the weigh beam is in balance during the process of weighing, and shall be issued in triplicate, for all livestock weighed at a public livestock market. A copy of ~~((such))~~ the weight tickets shall be issued to the buyer and seller of the livestock weighed.

Sec. 87. RCW 16.65.420 and 1991 c 17 s 3 are each amended to read as follows:

(1) Any application ~~((for sales days or days for a new salesyard, and any application))~~ for a change of sales day or days or additional sales day or days for an existing ~~((yard))~~ salesyard shall be subject to approval by the director, subsequent to a hearing ~~((as provided for in this chapter))~~ and the director is hereby authorized to ~~((allocate))~~ approve these ~~((dates and type))~~ days and class of livestock which may be sold on these ~~((dates))~~ days. In considering the ~~((allocation))~~ approval or denial of ~~((such))~~ these sales days, the director shall give appropriate consideration, among other relevant factors, to the following:

- (a) The geographical area which will be affected;
- (b) The conflict, if any, with sales days already allocated in the area;
- (c) The amount and class of livestock available for marketing in the area;
- (d) Buyers available to such market;
- (e) Any other conditions affecting the orderly marketing of livestock.

(2) No special sales shall be conducted by the licensee unless the licensee has applied to the director in writing fifteen days prior to such proposed sale ~~((and such sale date shall be approved at the discretion of the director))~~. Each application must be accompanied by a nonrefundable fee of fifty dollars.

(3) In any case that a licensee fails to conduct sales on the sales days allocated to the licensee, the director shall, subsequent to a hearing, be authorized to revoke an allocation for nonuse. The rate of usage required to maintain an allocation shall be established by rule.

Sec. 88. RCW 16.65.424 and 1963 c 232 s 19 are each amended to read as follows:

The director ~~((shall have))~~ has the authority to grant a licensee an additional sales day, or days, limited to the sale of horses and/or mules and may if requested grant the licensee, by permit, the authority to have the sale at premises other than at his or her public livestock market if the facilities are approved by the director as being adequate for the protection of the health and safety of ~~((such))~~ the horses and/or mules. For the purpose of such limited sale the facility requirements of RCW 16.65.360 shall not be applicable.

Sec. 89. RCW 16.65.440 and 1959 c 107 s 44 are each amended to read as follows:

Any person who ~~((shall))~~ violates any provisions or requirements of this chapter or rules ~~((and regulations))~~ adopted by the director ~~((pursuant to))~~ under this chapter ~~((shall be deemed))~~ is guilty of a gross misdemeanor ~~((; and any subsequent violation thereafter shall be deemed a gross misdemeanor))~~.

Sec. 90. RCW 16.65.445 and 1989 c 175 s 55 are each amended to read as follows:

The director shall hold public hearings upon ~~((a))~~ any proposal to ~~((promulgate))~~ adopt any new or amended ~~((regulations))~~ rules and all hearings for the denial, revocation, or suspension of a license issued under this chapter or

in any other adjudicative proceeding, and shall comply in all respects with chapter 34.05 RCW, the Administrative Procedure Act.

NEW SECTION. Sec. 91. A new section is added to chapter 42.17 RCW to read as follows:

Financial statements provided under RCW 16.65.030(1)(d) are exempt from disclosure under this chapter.

NEW SECTION. Sec. 92. The following acts or parts of acts are each repealed:

(1) RCW 16.57.380 (Horses—Mandatory brand inspection points—Powers of director) and 1991 c 110 s 8, 1981 c 296 s 22, & 1974 ex.s. c 38 s 1;

(2) RCW 16.65.110 (Charge for examining, testing, inoculating, etc.—Minimum fee) and 1959 c 107 s 11;

(3) RCW 16.65.422 (Special sales of purebred livestock) and 1963 c 232 s 17; and

(4) RCW 16.65.423 (Limited public livestock market license, sale of horses and/or mules—Sales days) and 1983 c 298 s 16 & 1963 c 232 s 18.

NEW SECTION. Sec. 93. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2003, except for sections 4 and 10 of this act which take effect January 1, 2004.

Passed by the Senate March 19, 2003.

Passed by the House April 24, 2003.

Approved by the Governor May 16, 2003.

Filed in Office of Secretary of State May 16, 2003.

CHAPTER 327

[Engrossed Senate Bill 5073]

WATERSHED MANAGEMENT

AN ACT Relating to watershed management; amending RCW 39.34.020 and 35.21.210; adding new sections to chapter 39.34 RCW; adding a new section to chapter 36.01 RCW; adding a new section to chapter 36.94 RCW; adding a new section to chapter 36.89 RCW; adding a new section to chapter 35.67 RCW; adding a new section to chapter 57.08 RCW; adding a new section to chapter 54.16 RCW; adding a new section to chapter 87.03 RCW; adding a new section to chapter 53.08 RCW; adding a new section to chapter 85.38 RCW; adding a new section to chapter 86.09 RCW; adding a new section to chapter 86.15 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 throughout Washington state there are many active efforts to protect, manage, and restore watersheds. The state's river systems provide a variety of benefits for society's many needs, so efforts to protect these watersheds should reflect the diversity of social, environmental, and economic factors that make the state unique.

Yet, there is a conflict between the natural flow of river systems and the way watersheds are governed. From a hydrological standpoint, a watershed is a single, integrated system. But these systems usually flow through a number of cities, counties, and other municipalities as they move from their source to the sea. As a result, many are subject to the full range of management interests, including multiple government entities with jurisdiction over water. In many

cases, the political boundaries of government do not align with the hydrological boundaries of watersheds and may actually hinder the implementation of coordinated, cooperative plans. Cooperative watershed management actions by local governments, special districts, and utilities can help maintain healthy watershed function and support the beneficial use of water by these entities and protect the quality of the resource that they use or affect. By participating in cooperative watershed management actions, local governments, special districts, and utilities are acting in the public interest and in a manner that is intended to sustain maximum beneficial use and high quality of water over time and to maintain the services that these entities provide.

Therefore, it is the intent of this act to remove statutory barriers that may prevent local governments from working together in the creation and implementation of cooperative, coordinated watershed plans. In addition, it is the further intent of this act to provide additional authorities to assist in such implementation.

NEW SECTION. Sec. 2. A new section is added to chapter 39.34 RCW to read as follows:

(1) The legislative authority of a city or county and the governing body of any special purpose district enumerated in subsection (2) of this section may authorize up to ten percent of its water-related revenues to be expended in the implementation of watershed management plan projects or activities that are in addition to the county's, city's, or district's existing water-related services or activities. Such limitation on expenditures shall not apply to additional revenues for watershed plan implementation that are authorized by voter approval under section 5 of this act or to water-related revenues of a public utility district organized according to Title 54 RCW. Water-related revenues include rates, charges, and fees for the provision of services relating to water supply, treatment, distribution, and management generally, and those general revenues of the local government that are expended for water management purposes. A local government may not expend for this purpose any revenues that were authorized by voter approval for other specified purposes or that are specifically dedicated to the repayment of municipal bonds or other debt instruments.

(2) The following special purpose districts may exercise the authority provided by this section:

(a) Water districts, sewer districts, and water-sewer districts organized under Title 57 RCW;

(b) Public utility districts organized under Title 54 RCW;

(c) Irrigation, reclamation, conservation, and similar districts organized under Titles 87 and 89 RCW;

(d) Port districts organized under Title 53 RCW;

(e) Diking, drainage, and similar districts organized under Title 85 RCW;

(f) Flood control and similar districts organized under Title 86 RCW;

(g) Lake management districts organized under chapter 36.61 RCW;

(h) Aquifer protection areas organized under chapter 36.36 RCW; and

(i) Shellfish protection districts organized under chapter 90.72 RCW.

(3) The authority for expenditure of local government revenues provided by this section shall be applicable broadly to the implementation of watershed management plans addressing water supply, water transmission, water quality

treatment or protection, or any other water-related purposes. Such plans include but are not limited to plans developed under the following authorities:

- (a) Watershed plans developed under chapter 90.82 RCW;
- (b) Salmon recovery plans developed under chapter 77.85 RCW;
- (c) Watershed management elements of comprehensive land use plans developed under the growth management act, chapter 36.70A RCW;
- (d) Watershed management elements of shoreline master programs developed under the shoreline management act, chapter 90.58 RCW;
- (e) Nonpoint pollution action plans developed under the Puget Sound water quality management planning authorities of chapter 90.71 RCW and chapter 400-12 WAC;
- (f) Other comprehensive management plans addressing watershed health at a WRIA level or sub-WRIA basin drainage level;
- (g) Coordinated water system plans under chapter 70.116 RCW and similar regional plans for water supply; and
- (h) Any combination of the foregoing plans in an integrated watershed management plan.

(4) The authority provided by this section to expend revenues for watershed management plan implementation shall be construed broadly to include, but not be limited to:

- (a) The coordination and oversight of plan implementation, including funding a watershed management partnership for this purpose;
- (b) Technical support, monitoring, and data collection and analysis;
- (c) The design, development, construction, and operation of projects included in the plan; and
- (d) Conducting activities and programs included as elements in the plan.

Sec. 3. RCW 39.34.020 and 1985 c 33 s 1 are each amended to read as follows:

~~(For the purposes of this chapter, the term)~~ Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Public agency" ~~((shall))~~ means any agency, political subdivision, or unit of local government of this state including, but not limited to, municipal corporations, quasi municipal corporations, special purpose districts, and local service districts; any agency of the state government; any agency of the United States; any Indian tribe recognized as such by the federal government; and any political subdivision of another state.

~~((The term))~~ (2) "State" ~~((shall))~~ means a state of the United States.

(3) "Watershed management partnership" means an interlocal cooperation agreement formed under the authority of section 4 of this act.

(4) "WRIA" has the definition in RCW 90.82.020.

NEW SECTION. Sec. 4. A new section is added to chapter 39.34 RCW to read as follows:

Any two or more public agencies may enter into agreements with one another to form a watershed management partnership for the purpose of implementing any portion or all elements of a watershed management plan, including the coordination and oversight of plan implementation. The plan may be any plan or plan element described in section 2(3) of this act. The watershed partnership agreement shall include the provisions required of all interlocal

agreements under RCW 39.34.030(3). The agreement shall be filed pursuant to RCW 39.34.040 with the county auditor of each county lying within the geographical watershed area to be addressed by the partnership. The public agencies forming the partnership shall designate a treasurer for the deposit, accounting, and handling of the funds of the partnership. The treasurer shall be either a county treasurer or a city treasurer of a county or city participating in the agreement to form the partnership.

***NEW SECTION.** *Sec. 5. A new section is added to chapter 39.34 RCW to read as follows:*

The public agencies forming a watershed management partnership under the authority of section 4 of this act may develop and implement a plan for financing all or one or more elements of a watershed management plan. These public agencies may propose raising additional revenues for this purpose from one or more sources under the existing revenue authorities of those public agencies financing plan implementation. The agencies shall attempt as nearly as practicable to develop a proposal under which the total burden will be distributed equitably upon those persons within the watershed plan area who will be benefited by the project, program, or activity. The revenue proposal shall include provisions to ensure that persons or parcels within the watershed plan area will not be taxed or assessed by more than one public agency for a specific watershed management plan project, program, or activity. The revenue proposal shall be submitted at a special or general election on the same day in all jurisdictions in which one or more elements of the proposal are to be applicable, and shall not be implemented unless the proposal receives a majority vote of the votes cast within each city, county, and special purpose district participating in the proposal.

**Sec. 5 was vetoed. See message at end of chapter.*

NEW SECTION. *Sec. 6. A new section is added to chapter 39.34 RCW to read as follows:*

Where a watershed management partnership formed under the authority of section 4 of this act establishes a separate legal entity to conduct the cooperating undertaking of the partnership, such legal entity is authorized for the purpose of carrying out such undertaking to contract indebtedness and to issue and sell general obligation bonds pursuant to and in the manner provided for general county bonds in chapters 36.67 and 39.46 RCW and other applicable statutes, and to issue revenue bonds pursuant to and in the manner provided for revenue bonds in chapter 36.67 RCW and other applicable statutes. The joint board established by the partnership agreement shall perform the functions referenced in chapter 36.67 RCW to be performed by the county legislative authority in the case of county bonds.

NEW SECTION. *Sec. 7. A new section is added to chapter 39.34 RCW to read as follows:*

The amendments by chapter . . . , Laws of 2003 (this act) to the interlocal cooperation act authorities are intended to provide additional authority to public agencies for the purposes of implementing watershed management plans, and do not affect any agreements among public agencies existing on the effective date of this section.

NEW SECTION. Sec. 8. A new section is added to chapter 36.01 RCW to read as follows:

A county may, acting through the county legislative authority, participate in and expend revenue on cooperative watershed management actions, including watershed management partnerships under section 6 of this act and other intergovernmental agreements, for purposes of water supply, water quality, and water resource and habitat protection and management.

NEW SECTION. Sec. 9. A new section is added to chapter 36.94 RCW to read as follows:

In addition to the authority provided in RCW 36.94.020, a county may, as part of maintaining a system of sewerage and/or water, participate in and expend revenue on cooperative watershed management actions, including watershed management partnerships under section 6 of this act and other intergovernmental agreements, for purposes of water supply, water quality, and water resource and habitat protection and management.

NEW SECTION. Sec. 10. A new section is added to chapter 36.89 RCW to read as follows:

In addition to the authority provided in RCW 36.89.030, a county may, as part of maintaining a system of storm water control facilities, participate in and expend revenue on cooperative watershed management actions, including watershed management partnerships under section 6 of this act and other intergovernmental agreements, for purposes of water supply, water quality, and water resource and habitat protection and management.

Sec. 11. RCW 35.21.210 and 1965 c 7 s 35.21.210 are each amended to read as follows:

Any city or town shall have power to provide for the sewerage, drainage, and water supply thereof, and to establish, construct, and maintain a system or systems of sewers and drains and a system or systems of water supply, within or without the corporate limits of such city or town, and to control, regulate, and manage the same. In addition, any city or town may, as part of maintaining a system of sewers and drains or a system of water supply, or independently of such a system or systems, participate in and expend revenue on cooperative watershed management actions, including watershed management partnerships under section 6 of this act and other intergovernmental agreements, for purposes of water supply, water quality, and water resource and habitat protection and management.

NEW SECTION. Sec. 12. A new section is added to chapter 35.67 RCW to read as follows:

In addition to the authority provided in RCW 35.67.020, a city may, as part of maintaining a system sewerage, participate in and expend revenue on cooperative watershed management actions, including watershed management partnerships under section 6 of this act and other intergovernmental agreements, for purposes of water supply, water quality, and water resource and habitat protection and management.

NEW SECTION. Sec. 13. A new section is added to chapter 57.08 RCW to read as follows:

In addition to the authority provided in RCW 57.08.005, a water district, sewer district, or water-sewer district may participate in and expend revenue on

cooperative watershed management actions, including watershed management partnerships under section 6 of this act and other intergovernmental agreements, for purposes of water supply, water quality, and water resource and habitat protection and management.

NEW SECTION. Sec. 14. A new section is added to chapter 54.16 RCW to read as follows:

In addition to the authority provided in RCW 54.16.030 relating to water supply, a public utility district may participate in and expend revenue on cooperative watershed management actions, including watershed management partnerships under section 6 of this act and other intergovernmental agreements, for purposes of water supply, water quality, and water resource and habitat protection and management.

NEW SECTION. Sec. 15. A new section is added to chapter 87.03 RCW to read as follows:

In addition to the authority provided throughout this title, an irrigation district, reclamation district, and similar districts organized pursuant to the authority of this title may participate in and expend revenue on cooperative watershed management actions, including watershed management partnerships under section 6 of this act and other intergovernmental agreements, for purposes of water supply, water quality, and water resource and habitat protection and management.

NEW SECTION. Sec. 16. A new section is added to chapter 53.08 RCW to read as follows:

In addition to the authority provided in this chapter, a port district may participate in and expend revenue on cooperative watershed management actions, including watershed management partnerships under section 6 of this act and other intergovernmental agreements, for purposes of water supply, water quality, and water resource and habitat protection and management.

NEW SECTION. Sec. 17. A new section is added to chapter 85.38 RCW to read as follows:

In addition to the authority provided throughout this title, diking, drainage, sewerage improvement, and similar districts organized pursuant to this title may participate in and expend revenue on cooperative watershed management actions, including watershed management partnerships under section 6 of this act and other intergovernmental agreements, for purposes of water supply, water quality, and water resource and habitat protection and management.

NEW SECTION. Sec. 18. A new section is added to chapter 86.09 RCW to read as follows:

In addition to the authority provided in this chapter, flood control districts may participate in and expend revenue on cooperative watershed management actions, including watershed management partnerships under section 6 of this act and other intergovernmental agreements, for purposes of water supply, water quality, and water resource and habitat protection and management.

NEW SECTION. Sec. 19. A new section is added to chapter 86.15 RCW to read as follows:

In addition to the authority provided in this chapter, flood control zone districts may participate in and expend revenue on cooperative watershed

management actions, including watershed management partnerships under section 6 of this act and other intergovernmental agreements, for purposes of water supply, water quality, and water resource and habitat protection and management.

Passed by the Senate April 26, 2003.

Passed by the House April 24, 2003.

Approved by the Governor May 16, 2003, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 16, 2003.

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

"I am returning herewith, without my approval as to section 5 Engrossed Senate Bill No. 5073 entitled:

"AN ACT Relating to watershed management;"

This bill provides a number of mechanisms that will assist local governments to cooperate among themselves in watershed planning efforts.

With the concurrence of the prime sponsor, I have vetoed section 5, which contains some confusing language.

With the exception of section 5, I am signing Engrossed Senate Bill No. 5073.

For this reason, I have vetoed section 5 of Engrossed Senate Bill No. 5073."

CHAPTER 328

[Engrossed Senate Bill 5343]

WATERSHED PLANNING

AN ACT Relating to watershed planning; and amending RCW 90.82.060.

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

Sec. 1. RCW 90.82.060 and 2001 c 229 s 1 are each amended to read as follows:

(1) Planning conducted under this chapter must provide for a process to allow the local citizens within a WRIA or multi-WRIA area to join together in an effort to: (a) Assess the status of the water resources of their WRIA or multi-WRIA area; and (b) determine how best to manage the water resources of the WRIA or multi-WRIA area to balance the competing resource demands for that area within the parameters under RCW 90.82.120.

(2) Watershed planning under this chapter may be initiated for a WRIA only with the concurrence of: (a) All counties within the WRIA; (b) the largest city or town within the WRIA unless the WRIA does not contain a city or town; and (c) the water supply utility obtaining the largest quantity of water from the WRIA or, for a WRIA with lands within the Columbia Basin project, the water supply utility obtaining from the Columbia Basin project the largest quantity of water for the WRIA. To apply for a grant for organizing the planning unit as provided for under RCW 90.82.040(2)(a), these entities shall designate the entity that will serve as the lead agency for the planning effort and indicate how the planning unit will be staffed. For purposes of this chapter, WRIA 40 shall be divided such that the portion of the WRIA located entirely within the Stemilt and Squilchuck subbasins shall be considered WRIA 40a and the remaining portion shall be

considered WRIA 40b. Planning may be conducted separately for WRIA 40a and 40b. WRIA 40a shall be eligible for one-fourth of the funding available for a single WRIA, and WRIA 40b shall be eligible for three-fourths of the funding available for a single WRIA.

(3) Watershed planning under this chapter may be initiated for a multi-WRIA area only with the concurrence of: (a) All counties within the multi-WRIA area; (b) the largest city or town in each WRIA unless the WRIA does not contain a city or town; and (c) the water supply utility obtaining the largest quantity of water in each WRIA.

(4) If entities in subsection (2) or (3) of this section decide jointly and unanimously to proceed, they shall invite all tribes with reservation lands within the management area.

(5) The entities in subsection (2) or (3) of this section, including the tribes if they affirmatively accept the invitation, constitute the initiating governments for the purposes of this section.

(6) The organizing grant shall be used to organize the planning unit and to determine the scope of the planning to be conducted. In determining the scope of the planning activities, consideration shall be given to all existing plans and related planning activities. The scope of planning must include water quantity elements as provided in RCW 90.82.070, and may include water quality elements as contained in RCW 90.82.090, habitat elements as contained in RCW 90.82.100, and instream flow elements as contained in RCW 90.82.080. The initiating governments shall work with state government, other local governments within the management area, and affected tribal governments, in developing a planning process. The initiating governments may hold public meetings as deemed necessary to develop a proposed scope of work and a proposed composition of the planning unit. In developing a proposed composition of the planning unit, the initiating governments shall provide for representation of a wide range of water resource interests.

(7) Each state agency with regulatory or other interests in the WRIA or multi-WRIA area to be planned shall assist the local citizens in the planning effort to the greatest extent practicable, recognizing any fiscal limitations. In providing such technical assistance and to facilitate representation on the planning unit, state agencies may organize and agree upon their representation on the planning unit. Such technical assistance must only be at the request of and to the extent desired by the planning unit conducting such planning. The number of state agency representatives on the planning unit shall be determined by the initiating governments in consultation with the governor's office.

(8) As used in this section, "lead agency" means the entity that coordinates staff support of its own or of other local governments and receives grants for developing a watershed plan.

Passed by the Senate April 21, 2003.

Passed by the House April 11, 2003.

Approved by the Governor May 16, 2003.

Filed in Office of Secretary of State May 16, 2003.

CHAPTER 329

[Substitute Senate Bill 5575]

SMALL IRRIGATION IMPOUNDMENTS

AN ACT Relating to small irrigation impoundments; and amending RCW 90.03.370, 90.03.380, and 90.44.100.

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

Sec. 1. RCW 90.03.370 and 2002 c 329 s 10 are each amended to read as follows:

(1)(a) All applications for reservoir permits are subject to the provisions of RCW 90.03.250 through 90.03.320. But the party or parties proposing to apply to a beneficial use the water stored in any such reservoir shall also file an application for a permit, to be known as the secondary permit, which shall be in compliance with the provisions of RCW 90.03.250 through 90.03.320. Such secondary application shall refer to such reservoir as its source of water supply and shall show documentary evidence that an agreement has been entered into with the owners of the reservoir for a permanent and sufficient interest in said reservoir to impound enough water for the purposes set forth in said application. When the beneficial use has been completed and perfected under the secondary permit, the department shall take the proof of the water users under such permit and the final certificate of appropriation shall refer to both the ditch and works described in the secondary permit and the reservoir described in the primary permit. The department may accept for processing a single application form covering both a proposed reservoir and a proposed secondary permit or permits for use of water from that reservoir.

(b) The department shall expedite processing applications for the following types of storage proposals:

- (i) Development of storage facilities that will not require a new water right for diversion or withdrawal of the water to be stored;
- (ii) Adding or changing one or more purposes of use of stored water;
- (iii) Adding to the storage capacity of an existing storage facility; and
- (iv) Applications for secondary permits to secure use from existing storage facilities.

(c) A secondary permit for the beneficial use of water shall not be required for use of water stored in a reservoir where the water right for the source of the stored water authorizes the beneficial use.

(2)(a) For the purposes of this section, "reservoir" includes, in addition to any surface reservoir, any naturally occurring underground geological formation where water is collected and stored for subsequent use as part of an underground artificial storage and recovery project. To qualify for issuance of a reservoir permit an underground geological formation must meet standards for review and mitigation of adverse impacts identified, for the following issues:

- (i) Aquifer vulnerability and hydraulic continuity;
- (ii) Potential impairment of existing water rights;
- (iii) Geotechnical impacts and aquifer boundaries and characteristics;
- (iv) Chemical compatibility of surface waters and ground water;
- (v) Recharge and recovery treatment requirements;
- (vi) System operation;
- (vii) Water rights and ownership of water stored for recovery; and

(viii) Environmental impacts.

(b) Standards for review and standards for mitigation of adverse impacts for an underground artificial storage and recovery project shall be established by the department by rule. Notwithstanding the provisions of RCW 90.03.250 through 90.03.320, analysis of each underground artificial storage and recovery project and each underground geological formation for which an applicant seeks the status of a reservoir shall be through applicant-initiated studies reviewed by the department.

(3) For the purposes of this section, "underground artificial storage and recovery project" means any project in which it is intended to artificially store water in the ground through injection, surface spreading and infiltration, or other department-approved method, and to make subsequent use of the stored water. However, (a) this subsection does not apply to irrigation return flow, or to operational and seepage losses that occur during the irrigation of land, or to water that is artificially stored due to the construction, operation, or maintenance of an irrigation district project, or to projects involving water reclaimed in accordance with chapter 90.46 RCW; and (b) RCW 90.44.130 applies to those instances of claimed artificial recharge occurring due to the construction, operation, or maintenance of an irrigation district project or operational and seepage losses that occur during the irrigation of land, as well as other forms of claimed artificial recharge already existing at the time a ground water subarea is established.

(4) Nothing in chapter 98, Laws of 2000 changes the requirements of existing law governing issuance of permits to appropriate or withdraw the waters of the state.

(5) The department shall report to the legislature by December 31, 2001, on the standards for review and standards for mitigation developed under subsection (3) of this section and on the status of any applications that have been filed with the department for underground artificial storage and recovery projects by that date.

(6) Where needed to ensure that existing storage capacity is effectively and efficiently used to meet multiple purposes, the department may authorize reservoirs to be filled more than once per year or more than once per season of use.

(7) This section does not apply to facilities to recapture and reuse return flow from irrigation operations serving a single farm under an existing water right as long as the acreage irrigated is not increased beyond the acreage allowed to be irrigated under the water right.

(8) In addition to the facilities exempted under subsection (7) of this section, this section does not apply to small irrigation impoundments. For purposes of this section, "small irrigation impoundments" means lined surface storage ponds less than ten acre feet in volume used to impound irrigation water under an existing water right where use of the impoundment: (a)(i) Facilitates efficient use of water; or (ii) promotes compliance with an approved recovery plan for endangered or threatened species; and (b) does not expand the number of acres irrigated or the annual consumptive quantity of water used. Such ponds must be lined unless a licensed engineer determines that a liner is not needed to retain water in the pond and to prevent ground water contamination. Although it may also be composed of other materials, a properly maintained liner may be

composed of bentonite. Water remaining in a small irrigation impoundment at the end of an irrigation season may be carried over for use in the next season. However, the limitations of this subsection (8) apply. Development and use of a small irrigation impoundment does not constitute a change or amendment for purposes of RCW 90.03.380 or 90.44.055.

Sec. 2. RCW 90.03.380 and 2001 c 237 s 5 are each amended to read as follows:

(1) The right to the use of water which has been applied to a beneficial use in the state shall be and remain appurtenant to the land or place upon which the same is used: PROVIDED, HOWEVER, That the right may be transferred to another or to others and become appurtenant to any other land or place of use without loss of priority of right theretofore established if such change can be made without detriment or injury to existing rights. The point of diversion of water for beneficial use or the purpose of use may be changed, if such change can be made without detriment or injury to existing rights. A change in the place of use, point of diversion, and/or purpose of use of a water right to enable irrigation of additional acreage or the addition of new uses may be permitted if such change results in no increase in the annual consumptive quantity of water used under the water right. For purposes of this section, "annual consumptive quantity" means the estimated or actual annual amount of water diverted pursuant to the water right, reduced by the estimated annual amount of return flows, averaged over the two years of greatest use within the most recent five-year period of continuous beneficial use of the water right. Before any transfer of such right to use water or change of the point of diversion of water or change of purpose of use can be made, any person having an interest in the transfer or change, shall file a written application therefor with the department, and the application shall not be granted until notice of the application is published as provided in RCW 90.03.280. If it shall appear that such transfer or such change may be made without injury or detriment to existing rights, the department shall issue to the applicant a certificate in duplicate granting the right for such transfer or for such change of point of diversion or of use. The certificate so issued shall be filed and be made a record with the department and the duplicate certificate issued to the applicant may be filed with the county auditor in like manner and with the same effect as provided in the original certificate or permit to divert water.

(2) If an application for change proposes to transfer water rights from one irrigation district to another, the department shall, before publication of notice, receive concurrence from each of the irrigation districts that such transfer or change will not adversely affect the ability to deliver water to other landowners or impair the financial integrity of either of the districts.

(3) A change in place of use by an individual water user or users of water provided by an irrigation district need only receive approval for the change from the board of directors of the district if the use of water continues within the irrigation district, and when water is provided by an irrigation entity that is a member of a board of joint control created under chapter 87.80 RCW, approval need only be received from the board of joint control if the use of water continues within the area of jurisdiction of the joint board and the change can be made without detriment or injury to existing rights.

(4) This section shall not apply to trust water rights acquired by the state through the funding of water conservation projects under chapter 90.38 RCW or RCW 90.42.010 through 90.42.070.

(5)(a) Pending applications for new water rights are not entitled to protection from impairment, injury, or detriment when an application relating to an existing surface or ground water right is considered.

(b) Applications relating to existing surface or ground water rights may be processed and decisions on them rendered independently of processing and rendering decisions on pending applications for new water rights within the same source of supply without regard to the date of filing of the pending applications for new water rights.

(c) Notwithstanding any other existing authority to process applications, including but not limited to the authority to process applications under WAC 173-152-050 as it existed on January 1, 2001, an application relating to an existing surface or ground water right may be processed ahead of a previously filed application relating to an existing right when sufficient information for a decision on the previously filed application is not available and the applicant for the previously filed application is sent written notice that explains what information is not available and informs the applicant that processing of the next application will begin. The previously filed application does not lose its priority date and if the information is provided by the applicant within sixty days, the previously filed application shall be processed at that time. This subsection (5)(c) does not affect any other existing authority to process applications.

(d) Nothing in this subsection (5) is intended to stop the processing of applications for new water rights.

(6) No applicant for a change, transfer, or amendment of a water right may be required to give up any part of the applicant's valid water right or claim to a state agency, the trust water rights program, or to other persons as a condition of processing the application.

(7) In revising the provisions of this section and adding provisions to this section by chapter 237, Laws of 2001, the legislature does not intend to imply legislative approval or disapproval of any existing administrative policy regarding, or any existing administrative or judicial interpretation of, the provisions of this section not expressly added or revised.

(8) The development and use of a small irrigation impoundment, as defined in RCW 90.03.370(8), does not constitute a change or amendment for the purposes of this section. The exemption expressly provided by this subsection shall not be construed as requiring a change or transfer of any existing water right to enable the holder of the right to store water governed by the right.

Sec. 3. RCW 90.44.100 and 1997 c 316 s 2 are each amended to read as follows:

(1) After an application to, and upon the issuance by the department of an amendment to the appropriate permit or certificate of ground water right, the holder of a valid right to withdraw public ground waters may, without losing the holder's priority of right, construct wells or other means of withdrawal at a new location in substitution for or in addition to those at the original location, or the holder may change the manner or the place of use of the water.

(2) An amendment to construct replacement or a new additional well or wells at a location outside of the location of the original well or wells or to

change the manner or place of use of the water shall be issued only after publication of notice of the application and findings as prescribed in the case of an original application. Such amendment shall be issued by the department only on the conditions that: (a) The additional or replacement well or wells shall tap the same body of public ground water as the original well or wells; (b) where a replacement well or wells is approved, the use of the original well or wells shall be discontinued and the original well or wells shall be properly decommissioned as required under chapter 18.104 RCW; (c) where an additional well or wells is constructed, the original well or wells may continue to be used, but the combined total withdrawal from the original and additional well or wells shall not enlarge the right conveyed by the original permit or certificate; and (d) other existing rights shall not be impaired. The department may specify an approved manner of construction and shall require a showing of compliance with the terms of the amendment, as provided in RCW 90.44.080 in the case of an original permit.

(3) The construction of a replacement or new additional well or wells at the location of the original well or wells shall be allowed without application to the department for an amendment. However, the following apply to such a replacement or new additional well: (a) The well shall tap the same body of public ground water as the original well or wells; (b) if a replacement well is constructed, the use of the original well or wells shall be discontinued and the original well or wells shall be properly decommissioned as required under chapter 18.104 RCW; (c) if a new additional well is constructed, the original well or wells may continue to be used, but the combined total withdrawal from the original and additional well or wells shall not enlarge the right conveyed by the original water use permit or certificate; (d) the construction and use of the well shall not interfere with or impair water rights with an earlier date of priority than the water right or rights for the original well or wells; (e) the replacement or additional well shall be located no closer than the original well to a well it might interfere with; (f) the department may specify an approved manner of construction of the well; and (g) the department shall require a showing of compliance with the conditions of this subsection (3).

(4) As used in this section, the "location of the original well or wells" is the area described as the point of withdrawal in the original public notice published for the application for the water right for the well.

(5) The development and use of a small irrigation impoundment, as defined in RCW 90.03.370(8), does not constitute a change or amendment for the purposes of this section. The exemption expressly provided by this subsection shall not be construed as requiring an amendment of any existing water right to enable the holder of the right to store water governed by the right.

Passed by the Senate April 22, 2003.

Passed by the House April 18, 2003.

Approved by the Governor May 16, 2003.

Filed in Office of Secretary of State May 16, 2003.

CHAPTER 330

[Engrossed Senate Bill 5014]

PUBLIC WORKS ASSISTANCE—SUBACCOUNT

AN ACT Relating to public water projects; reenacting and amending RCW 43.79A.040; adding a new section to chapter 43.155 RCW; and declaring an emergency.

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

NEW SECTION. Sec. 1. A new section is added to chapter 43.155 RCW to read as follows:

(1) A subaccount is created in the public works assistance account to receive money to fund the following projects: (a) Water storage projects; and (b) water systems facilities.

(2) The projects listed in subsection (1) of this section must comply with the competitive bid requirements of RCW 43.155.060.

(3) The subaccount created in subsection (1) of this section shall receive amounts appropriated to it for purposes of distributing these moneys as grants for water storage projects and water systems facilities projects as provided in the appropriation and this section. This subaccount shall be administered by the board and shall be separate from the other programs managed by the board under this chapter.

(4) The subaccount created in this section shall be known as the water storage projects and water systems facilities subaccount of the public works assistance account.

**Sec. 2. RCW 43.79A.040 and 2002 c 322 s 5, 2002 c 204 s 7, and 2002 c 61 s 6 are each reenacted and amended to read as follows:*

(1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury.

(2) All income received from investment of the treasurer's trust fund shall be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer shall distribute the earnings credited to the investment income account to the state general fund except under (b) and (c) of this subsection.

(b) The following accounts and funds shall receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The Washington promisc scholarship account, the college savings program account, the Washington advanced college tuition payment program account, the agricultural local fund, the American Indian scholarship endowment fund, the basic health plan self-insurance reserve account, the Washington state combined fund drive account, the Washington international exchange scholarship endowment fund, the developmental

disabilities endowment trust fund, the energy account, the fair fund, the fruit and vegetable inspection account, the game farm alternative account, the grain inspection revolving fund, the juvenile accountability incentive account, the rural rehabilitation account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the sulfur dioxide abatement account, the water storage projects and water systems facilities subaccount of the public works assistance account, and the children's trust fund. However, the earnings to be distributed shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(c) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advanced right of way revolving fund, the advanced environmental mitigation revolving account, the city and county advance right-of-way revolving fund, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

**Sec. 2 was vetoed. See message at end of chapter.*

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

**Sec. 3 was vetoed. See message at end of chapter.*

Passed by the Senate April 22, 2003.

Passed by the House April 10, 2003.

Approved by the Governor May 16, 2003, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 16, 2003.

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

"I am returning herewith, without my approval as to sections 2 and 3, Engrossed Senate Bill No. 5014 entitled:

"AN ACT relating to public water projects;"

This bill creates a subaccount within the Public Works Assistance Account to distribute grants for water storage projects and water system facilities.

Section 2 amends RCW 43.79A.040, with the intent that the new subaccount would retain its proportionate share of investment income. However, this section of law is related to the Treasurer's trust funds, and the Public Works Assistance Account is not a trust fund. Additionally, this section conflicts with the provisions of Chapter 150, Laws of 2003, which transfers the investment income of the Public Works Assistance Account to the Community Economic Revitalization Program.

Section 3 contains an emergency clause. Given that there is no supplemental budget funding available in the current biennium, there is no rationale for having this law take effect immediately.

For these reasons, I have vetoed sections 2 and 3 of Engrossed Senate Bill No. 5014.

With the exception of sections 2 and 3, Engrossed Senate Bill No. 5014 is approved."

CHAPTER 331

[Substitute Senate Bill 5409]

ANNEXATIONS—DIRECT PETITION METHOD

AN ACT Relating to providing a new direct petition annexation method; amending RCW 35.21.005 and 35A.01.040; adding new sections to chapter 35.13 RCW; adding new sections to chapter 35A.14 RCW; creating new sections; and declaring an emergency.

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

NEW SECTION. Sec. 1. The legislature recognizes that on March 14, 2002, the Washington state supreme court decided in *Grant County Fire Protection District No. 5 v. City of Moses Lake*, 145 Wn.2d 702 (2002), that the petition method of annexation authorized by RCW 35.13.125 through 35.13.160 and 35A.14.120 through 35A.14.150 is unconstitutional. The legislature also recognizes that on October 11, 2002, the Washington state supreme court granted a motion for reconsideration of this decision. The legislature intends to provide a new method of direct petition annexation that enables property owners and registered voters to participate in an annexation process without the constitutional defect identified by the court.

NEW SECTION. Sec. 2. A new section is added to chapter 35.13 RCW to read as follows:

Proceedings for the annexation of territory pursuant to this section and section 3 of this act shall be commenced as provided in this section. Before the circulation of a petition for annexation, the initiating party or parties who, except as provided in RCW 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 of the acreage 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 any portion of existing city or town indebtedness by the area to be annexed. If the legislative body requires the assumption of all or 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.

NEW SECTION. Sec. 3. A new section is added to chapter 35.13 RCW to read as follows:

(1) 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.335.110, the petition must be signed by the owners of a majority of the acreage for which annexation is petitioned and a majority of the registered voters residing in the area for which annexation is petitioned.

(2) If no residents exist within the area proposed for annexation, the petition must be signed by the owners of a majority of the acreage for which annexation is petitioned.

(3) The petition shall set forth a legal description of the property proposed to be annexed that complies with RCW 35.02.170, and shall be accompanied by a drawing that outlines the boundaries of the property sought to be annexed. If the legislative body has required the assumption of all or 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.

NEW SECTION. Sec. 4. A new section is added to chapter 35.13 RCW to read as follows:

When a petition for annexation is filed with the city or town council, or commission in those cities having a commission form of government, that meets the requirements of sections 2 and 3 of this act and RCW 35.21.005, of which fact satisfactory proof may be required by the council or commission, the council or commission may entertain the same, fix a date for a public hearing thereon and cause notice of the hearing to be published in one issue of a newspaper of general circulation in the city or town. The notice shall also be posted in three public places within the territory proposed for annexation, and shall specify the time and place of hearing and invite interested persons to appear and voice approval or disapproval of the annexation. The expense of publication and posting of the notice shall be borne by the signers of the petition.

NEW SECTION. Sec. 5. A new section is added to chapter 35.13 RCW to read as follows:

Following the hearing, the council or commission shall determine by ordinance whether annexation shall be made. Subject to the provisions of sections 2 through 7 of this act and RCW 35.21.005, they may annex all or any portion of the proposed area but may not include in the annexation any property not described in the petition. Upon passage of the ordinance a certified copy shall be filed with the board of county commissioners of the county in which the annexed property is located.

NEW SECTION. Sec. 6. A new section is added to chapter 35.13 RCW to read as follows:

Upon the date fixed in the ordinance of annexation, the area annexed shall become part of the city or town. All property within the annexed territory shall, if the annexation petition so provided, be assessed and taxed at the same rate and on the same basis as the property of such annexing city or town is assessed and taxed to pay for all or of any portion of the then outstanding indebtedness of the city or town to which the area is annexed, approved by the voters, contracted, or incurred before, or existing at, the date of annexation. If the annexation petition so provided, all property in the annexed area is subject to and is a part of the comprehensive plan as prepared and filed as provided for in RCW 35.13.177 and 35.13.178.

NEW SECTION. Sec. 7. A new section is added to chapter 35.13 RCW to read as follows:

The method of annexation provided for in sections 2 through 6 of this act is an alternative method, and does not supersede any other method.

Sec. 8. RCW 35.21.005 and 1996 c 286 s 6 are each amended to read as follows:

Wherever in this title petitions are required to be signed and filed, the following rules shall govern the sufficiency thereof:

(1) A petition may include any page or group of pages containing an identical text or prayer intended by the circulators, signers or sponsors to be presented and considered as one petition and containing the following essential elements when applicable, except that the elements referred to in (d) and (e) of this subsection are essential for petitions referring or initiating legislative matters to the voters, but are directory as to other petitions:

(a) The text or prayer of the petition which shall be a concise statement of the action or relief sought by petitioners and shall include a reference to the applicable state statute or city ordinance, if any;

(b) If the petition initiates or refers an ordinance, a true copy thereof;

(c) If the petition seeks the annexation, incorporation, withdrawal, or reduction of an area for any purpose, an accurate legal description of the area proposed for such action and if practical, a map of the area;

(d) Numbered lines for signatures with space provided beside each signature for the name and address of the signer and the date of signing;

(e) The warning statement prescribed in subsection (2) of this section.

(2) Petitions shall be printed or typed on single sheets of white paper of good quality and each sheet of petition paper having a space thereon for signatures shall contain the text or prayer of the petition and the following warning:

WARNING

Every person who signs this petition with any other than his or her true name, or who knowingly signs more than one of these petitions, or signs a petition seeking an election when he or she is not a legal voter, or signs a petition when he or she is otherwise not qualified to sign, or who makes herein any false statement, shall be guilty of a misdemeanor.

Each signature shall be executed in ink or indelible pencil and shall be followed by the name and address of the signer and the date of signing.

(3) The term "signer" means any person who signs his or her own name to the petition.

(4) To be sufficient a petition must contain valid signatures of qualified registered voters or property owners, as the case may be, in the number required by the applicable statute or ordinance. Within three working days after the filing of a petition, the officer with whom the petition is filed shall transmit the petition to the county auditor for petitions signed by registered voters, or to the county assessor for petitions signed by property owners for determination of sufficiency. The officer or officers whose duty it is to determine the sufficiency of the petition shall proceed to make such a determination with reasonable promptness and shall file with the officer receiving the petition for filing a certificate stating the date upon which such determination was begun, which date shall be referred to as the terminal date. Additional pages of one or more signatures may be added to the petition by filing the same with the appropriate filing officer prior to such terminal date. Any signer of a filed petition may withdraw his or her

signature by a written request for withdrawal filed with the receiving officer prior to such terminal date. Such written request shall so sufficiently describe the petition as to make identification of the person and the petition certain. The name of any person seeking to withdraw shall be signed exactly the same as contained on the petition and, after the filing of such request for withdrawal, prior to the terminal date, the signature of any person seeking such withdrawal shall be deemed withdrawn.

(5) Petitions containing the required number of signatures shall be accepted as prima facie valid until their invalidity has been proved.

(6) A variation on petitions between the signatures on the petition and that on the voter's permanent registration caused by the substitution of initials instead of the first or middle names, or both, shall not invalidate the signature on the petition if the surname and handwriting are the same.

(7) Signatures, including the original, of any person who has signed a petition two or more times shall be stricken.

(8) Signatures followed by a date of signing which is more than six months prior to the date of filing of the petition shall be stricken.

(9) When petitions are required to be signed by the owners of property, the determination shall be made by the county assessor. Where validation of signatures to the petition is required, the following shall apply:

(a) The signature of a record owner, as determined by the records of the county auditor, shall be sufficient without the signature of his or her spouse;

(b) In the case of mortgaged property, the signature of the mortgagor shall be sufficient, without the signature of his or her spouse;

(c) In the case of property purchased on contract, the signature of the contract purchaser, as shown by the records of the county auditor, shall be deemed sufficient, without the signature of his or her spouse;

(d) Any officer of a corporation owning land within the area involved who is duly authorized to execute deeds or encumbrances on behalf of the corporation, may sign on behalf of such corporation, and shall attach to the petition a certified excerpt from the bylaws of such corporation showing such authority;

(e) When property stands in the name of a deceased person or any person for whom a guardian has been appointed, the signature of the executor, administrator, or guardian, as the case may be, shall be equivalent to the signature of the owner of the property; and

(f) When a parcel of property is owned by multiple owners, the signature of an owner designated by the multiple owners is sufficient.

(10) The officer (~~who is~~) or officers responsible for determining the sufficiency of the petition shall do so in writing and transmit the written certificate to the officer with whom the petition was originally filed.

Sec. 9. RCW 35A.01.040 and 1996 c 286 s 7 are each amended to read as follows:

Wherever in this title petitions are required to be signed and filed, the following rules shall govern the sufficiency thereof:

(1) A petition may include any page or group of pages containing an identical text or prayer intended by the circulators, signers or sponsors to be presented and considered as one petition and containing the following essential elements when applicable, except that the elements referred to in (d) and (e) of

this subsection are essential for petitions referring or initiating legislative matters to the voters, but are directory as to other petitions:

(a) The text or prayer of the petition which shall be a concise statement of the action or relief sought by petitioners and shall include a reference to the applicable state statute or city ordinance, if any;

(b) If the petition initiates or refers an ordinance, a true copy thereof;

(c) If the petition seeks the annexation, incorporation, withdrawal, or reduction of an area for any purpose, an accurate legal description of the area proposed for such action and if practical, a map of the area;

(d) Numbered lines for signatures with space provided beside each signature for the name and address of the signer and the date of signing;

(e) The warning statement prescribed in subsection (2) of this section.

(2) Petitions shall be printed or typed on single sheets of white paper of good quality and each sheet of petition paper having a space thereon for signatures shall contain the text or prayer of the petition and the following warning:

WARNING

Every person who signs this petition with any other than his or her true name, or who knowingly signs more than one of these petitions, or signs a petition seeking an election when he or she is not a legal voter, or signs a petition when he or she is otherwise not qualified to sign, or who makes herein any false statement, shall be guilty of a misdemeanor.

Each signature shall be executed in ink or indelible pencil and shall be followed by the name and address of the signer and the date of signing.

(3) The term "signer" means any person who signs his or her own name to the petition.

(4) To be sufficient a petition must contain valid signatures of qualified registered voters or property owners, as the case may be, in the number required by the applicable statute or ordinance. Within three working days after the filing of a petition, the officer with whom the petition is filed shall transmit the petition to the county auditor for petitions signed by registered voters, or to the county assessor for petitions signed by property owners for determination of sufficiency. The officer or officers whose duty it is to determine the sufficiency of the petition shall proceed to make such a determination with reasonable promptness and shall file with the officer receiving the petition for filing a certificate stating the date upon which such determination was begun, which date shall be referred to as the terminal date. Additional pages of one or more signatures may be added to the petition by filing the same with the appropriate filing officer prior to such terminal date. Any signer of a filed petition may withdraw his or her signature by a written request for withdrawal filed with the receiving officer prior to such terminal date. Such written request shall so sufficiently describe the petition as to make identification of the person and the petition certain. The name of any person seeking to withdraw shall be signed exactly the same as contained on the petition and, after the filing of such request for withdrawal, prior to the terminal date, the signature of any person seeking such withdrawal shall be deemed withdrawn.

(5) Petitions containing the required number of signatures shall be accepted as prima facie valid until their invalidity has been proved.

(6) A variation on petitions between the signatures on the petition and that on the voter's permanent registration caused by the substitution of initials instead of the first or middle names, or both, shall not invalidate the signature on the petition if the surname and handwriting are the same.

(7) Signatures, including the original, of any person who has signed a petition two or more times shall be stricken.

(8) Signatures followed by a date of signing which is more than six months prior to the date of filing of the petition shall be stricken.

(9) When petitions are required to be signed by the owners of property, the determination shall be made by the county assessor. Where validation of signatures to the petition is required, the following shall apply:

(a) The signature of a record owner, as determined by the records of the county auditor, shall be sufficient without the signature of his or her spouse;

(b) In the case of mortgaged property, the signature of the mortgagor shall be sufficient, without the signature of his or her spouse;

(c) In the case of property purchased on contract, the signature of the contract purchaser, as shown by the records of the county auditor, shall be deemed sufficient, without the signature of his or her spouse;

(d) Any officer of a corporation owning land within the area involved who is duly authorized to execute deeds or encumbrances on behalf of the corporation, may sign on behalf of such corporation, and shall attach to the petition a certified excerpt from the bylaws of such corporation showing such authority;

(e) When property stands in the name of a deceased person or any person for whom a guardian has been appointed, the signature of the executor, administrator, or guardian, as the case may be, shall be equivalent to the signature of the owner of the property; and

(f) When a parcel of property is owned by multiple owners, the signature of an owner designated by the multiple owners is sufficient.

(10) The officer (~~who is~~) or officers responsible for determining the sufficiency of the petition shall do so in writing and transmit the written certificate to the officer with whom the petition was originally filed.

NEW SECTION. Sec. 10. A new section is added to chapter 35A.14 RCW to read as follows:

(1) Proceedings for initiating annexation of unincorporated territory to a charter code city or noncharter code city may be commenced by the filing of a petition of property owners of the territory proposed to be annexed, in the following manner which is alternative to other methods provided in this chapter:

(a) Before the circulation of a petition for annexation, the initiating party or parties, who shall be the owners of not less than ten percent of the acreage for which annexation is sought, shall notify the legislative body of the code city in writing of their intention to commence annexation proceedings;

(b) 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 code city will accept, reject, or geographically modify the proposed annexation, whether it shall require the simultaneous adoption of a proposed zoning regulation, if such a proposal has been prepared and filed for the area to

be annexed as provided for in RCW 35A.14.330 and 35A.14.340, and whether it shall require the assumption of all or any portion of existing city indebtedness by the area to be annexed;

(c) If the legislative body requires the assumption of all or any portion of indebtedness and/or the adoption of a proposed zoning regulation, it shall record this action in its minutes and the petition for annexation shall be so drawn as to clearly indicate these facts;

(d) Approval by the legislative body shall be a condition precedent to circulation of the petition; and

(e) There shall be no appeal from the decision of the legislative body.

(2) A petition for annexation of an area contiguous to a code city may be filed with the legislative body of the municipality to which annexation is desired. The petition for annexation must be signed by the owners of a majority of the acreage for which annexation is petitioned and a majority of the registered voters residing in the area for which annexation is petitioned.

(3) If no residents exist within the area proposed for annexation, the petition must be signed by the owners of a majority of the acreage for which annexation is petitioned.

(4) The petition shall set forth a legal description of the property proposed to be annexed that complies with RCW 35A.14.410, and shall be accompanied by a drawing that outlines the boundaries of the property sought to be annexed. If the legislative body has required the assumption of all or any portion of city indebtedness by the area annexed or the adoption of a proposed zoning regulation, these facts, together with a quotation of the minute entry of such requirement, or requirements, shall also be set forth in the petition.

NEW SECTION. Sec. 11. A new section is added to chapter 35A.14 RCW to read as follows:

When a petition for annexation is filed with the legislative body of a code city, that meets the requirements of RCW 35A.01.040 and section 10 of this act, the legislative body may entertain the same, fix a date for a public hearing thereon and cause notice of the hearing to be published in one or more issues of a newspaper of general circulation in the city. The notice shall also be posted in three public places within the territory proposed for annexation, and shall specify the time and place of hearing and invite interested persons to appear and voice approval or disapproval of the annexation.

NEW SECTION. Sec. 12. A new section is added to chapter 35A.14 RCW to read as follows:

Following the hearing, if the legislative body determines to effect the annexation, they shall do so by ordinance. Subject to RCW 35A.14.410, the ordinance may annex all or any portion of the proposed area but may not include in the annexation any property not described in the petition. Upon passage of the annexation ordinance, a certified copy shall be filed with the board of county commissioners of the county in which the annexed property is located.

NEW SECTION. Sec.13. A new section is added to chapter 35A.14 RCW to read as follows:

Upon the date fixed in the ordinance of annexation, the area annexed shall become part of the city. All property within the annexed territory shall, if the annexation petition so provided, be assessed and taxed at the same rate and on

the same basis as the property of the annexing code city is assessed and taxed to pay for the portion of any then-outstanding indebtedness of the city to which the area is annexed, which indebtedness has been approved by the voters, contracted for, or incurred before, or existing at, the date of annexation and that the city has required to be assumed. If the annexation petition so provided, all property in the annexed area shall be subject to and a part of the proposed zoning regulation as prepared and filed as provided for in RCW 35A.14.330 and 35A.14.340.

NEW SECTION. Sec. 14. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 15. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the Senate April 17, 2003.

Passed by the House April 14, 2003.

Approved by the Governor May 16, 2003.

Filed in Office of Secretary of State May 16, 2003.

CHAPTER 332

[Senate Bill 5507]

GROWTH MANAGEMENT HEARINGS BOARD—STANDING

AN ACT Relating to standing before growth management hearings boards; amending RCW 36.70A.280; and creating a new section.

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

NEW SECTION. Sec. 1. This act is intended to codify the Washington State Court of Appeals holding in *Wells v. Western Washington Growth Management Hearings Board*, 100 Wn. App. 657 (2000), by mandating that to establish participation standing under the Growth Management Act, a person must show that his or her participation before the county or city was reasonably related to the person's issue as presented to the growth management hearings board.

Sec. 2. RCW 36.70A.280 and 1996 c 325 s 2 are each amended to read as follows:

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

(a) That a state agency, county, or city planning under this chapter is not in compliance with the requirements of this chapter, chapter 90.58 RCW as it relates to the adoption of shoreline master programs or amendments thereto, or chapter 43.21C RCW as it relates to plans, development regulations, or amendments, adopted under RCW 36.70A.040 or chapter 90.58 RCW; or

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

(2) A petition may be filed only by: (a) The state, or a county or city that plans under this chapter; (b) a person who has participated orally or in writing before the county or city regarding the matter on which a review is being

requested; (c) a person who is certified by the governor within sixty days of filing the request with the board; or (d) a person qualified pursuant to RCW 34.05.530.

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

(4) To establish participation standing under subsection (2)(b) of this section, a person must show that his or her participation before the county or city was reasonably related to the person's issue as presented to the board.

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

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

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

Passed by the Senate April 17, 2003.

Passed by the House April 10, 2003.

Approved by the Governor May 16, 2003.

Filed in Office of Secretary of State May 16, 2003.

CHAPTER 333

[Substitute Senate Bill 5602]

GROWTH MANAGEMENT—PLANNING

AN ACT Relating to accommodating housing and employment growth for local jurisdictions planning under RCW 36.70A.040; and adding a new section to chapter 36.70A RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 36.70A RCW to read as follows:

Counties and cities that are required or choose to plan under RCW 36.70A.040 shall ensure that, taken collectively, adoption of and amendments to their comprehensive plans and/or development regulations provide sufficient capacity of land suitable for development within their jurisdictions to accommodate their allocated housing and employment growth, as adopted in the applicable countywide planning policies and consistent with the twenty-year population forecast from the office of financial management.

Passed by the Senate April 21, 2003.

Passed by the House April 11, 2003.

Approved by the Governor May 16, 2003.

Filed in Office of Secretary of State May 16, 2003.

CHAPTER 334

[Engrossed House Bill 1252]

TITLE 79 RCW—RECODIFICATION

AN ACT Relating to the recodification of Title 79 RCW and related public land statutes; amending RCW 43.12.025, 43.12.035, 43.12.055, 43.30.040, 43.30.060, 43.30.115, 43.30.125, 43.30.130, 43.30.138, 43.30.141, 43.30.145, 43.30.150, 43.30.160, 43.30.170, 43.30.180, 43.30.260, 43.30.265, 43.30.270, 43.30.280, 43.30.290, 43.30.300, 43.30.310, 43.30.400, 43.85.130, 76.01.010, 76.01.040, 76.01.050, 76.01.060, 76.12.020, 76.12.030, 76.12.035, 76.12.050, 76.12.060, 76.12.065, 76.12.070, 76.12.072, 76.12.073, 76.12.074, 76.12.075, 76.12.090, 76.12.100, 76.12.110, 76.12.120, 76.12.125, 76.12.140, 76.12.155, 76.12.180, 76.12.180, 76.12.240, 76.16.010, 76.16.020, 76.16.030, 76.16.040, 76.20.010, 76.20.020, 76.20.030, 76.20.035, 76.20.040, 79.01.004, 79.01.007, 79.01.052, 79.01.056, 79.01.060, 79.01.064, 79.01.080, 79.01.082, 79.01.084, 79.01.088, 79.01.092, 79.01.093, 79.01.094, 79.01.095, 79.01.096, 79.01.100, 79.01.104, 79.01.108, 79.01.112, 79.01.116, 79.01.120, 79.01.124, 79.01.128, 79.01.134, 79.01.136, 79.01.148, 79.01.160, 79.01.164, 79.01.168, 79.01.172, 79.01.176, 79.01.184, 79.01.188, 79.01.192, 79.01.196, 79.01.200, 79.01.204, 79.01.208, 79.01.212, 79.01.216, 79.01.220, 79.01.228, 79.01.232, 79.01.236, 79.01.238, 79.01.240, 79.01.242, 79.01.244, 79.01.248, 79.01.268, 79.01.284, 79.01.292, 79.01.295, 79.01.295, 79.01.296, 79.01.300, 79.01.301, 79.01.304, 79.01.332, 79.01.336, 79.01.340, 79.01.348, 79.01.352, 79.01.356, 79.01.360, 79.01.364, 79.01.388, 79.01.392, 79.01.400, 79.01.404, 79.01.408, 79.01.414, 79.01.612, 79.01.616, 79.01.617, 79.01.618, 79.01.620, 79.01.632, 79.01.633, 79.01.634, 79.01.640, 79.01.644, 79.01.645, 79.01.648, 79.01.649, 79.01.650, 79.01.652, 79.01.656, 79.01.660, 79.01.664, 79.01.666, 79.01.672, 79.01.676, 79.01.680, 79.01.684, 79.01.688, 79.01.692, 79.01.696, 79.01.708, 79.01.712, 79.01.720, 79.01.724, 79.01.728, 79.01.736, 79.01.740, 79.01.744, 79.01.752, 79.01.760, 79.01.765, 79.01.770, 79.01.774, 79.01.778, 79.01.780, 79.01.784, 79.01.805, 79.01.810, 79.01.815, 79.08.015, 79.08.070, 79.08.080, 79.08.090, 79.08.110, 79.08.120, 79.08.170, 79.08.180, 79.08.250, 79.08.260, 79.08.275, 79.08.275, 79.08.277, 79.08.279, 79.08.281, 79.08.283, 79.12.015, 79.12.025, 79.12.035, 79.12.055, 79.12.095, 79.12.570, 79.12.600, 79.12.610, 79.12.620, 79.12.630, 79.14.010, 79.14.020, 79.14.030, 79.14.040, 79.14.080, 79.14.090, 79.14.090, 79.14.100, 79.14.110, 79.14.110, 79.14.120, 79.14.130, 79.14.140, 79.14.150, 79.14.180, 79.14.190, 79.14.200, 79.14.210, 79.14.220, 79.28.010, 79.28.020, 79.28.030, 79.28.040, 79.28.050, 79.28.070, 79.28.080, 79.36.260, 79.36.270, 79.36.280, 79.36.290, 79.38.010, 79.38.030, 79.38.040, 79.38.050, 79.38.060, 79.40.070, 79.40.080, 79.44.020, 79.44.030, 79.44.060, 79.44.120, 79.60.010, 79.60.020, 79.60.030, 79.60.040, 79.60.050, 79.60.060, 79.60.070, 79.60.080, 79.60.090, 79.64.010, 79.64.020, 79.64.030, 79.64.040, 79.64.050, 79.64.090, 79.66.010, 79.66.020, 79.66.030, 79.66.040, 79.66.050, 79.66.060, 79.66.080, 79.66.090, 79.66.100, 79.68.010, 79.68.020, 79.68.030, 79.68.035, 79.68.040, 79.68.060, 79.68.070, 79.68.080, 79.68.090, 79.68.100, 79.68.110, 79.68.120, 79.68.900, 79.68.910, 79.70.020, 79.70.030, 79.70.090, 79.90.270, 79.90.325, 79.90.330, 79.90.340, 79.90.380, 79.90.400, 79.91.010, 79.91.030, 79.91.040, 79.91.050, 79.91.060, 79.91.080, 79.91.190, 79.91.210, and 79.94.450; reenacting and amending RCW 79.01.500; adding a new section to chapter 43.30 RCW; adding new sections to chapter 43.12 RCW; adding new sections to chapter 79.36 RCW; adding a new section to chapter 79.38 RCW; adding new sections to chapter 79.64 RCW; adding new sections to chapter 79.14 RCW; adding new sections to chapter 79.90 RCW; adding new sections to chapter 79.94 RCW; adding new sections to chapter 79.96 RCW; adding a new chapter to Title 43 RCW; adding new chapters to Title 79 RCW; adding a new chapter to Title 78 RCW; creating a new section; recodifying RCW 43.30.310, 43.30.010, 43.30.020, 43.30.030, 43.30.270, 43.30.050, 43.30.060, 43.30.040, 43.30.150, 43.30.280, 43.30.290, 43.85.130, 43.30.360, 43.30.370, 43.30.115, 43.30.130, 43.30.160, 43.30.170, 43.30.180, 43.30.355, 43.30.400, 43.30.410, 43.30.420, 43.30.210, 43.30.250, 43.30.260, 43.30.125, 43.30.138, 43.30.350, 43.12.025, 43.12.035, 43.30.141, 43.30.145, 43.30.135, 43.30.300, 43.30.390, 43.30.265, 76.01.040, 76.01.050, 76.01.060, 76.12.160, 76.12.170, 76.12.205, 76.12.210, 76.12.220, 76.12.230, 76.12.240, 76.12.040, 76.12.045, 76.01.010, 76.20.010, 76.20.020, 76.20.030, 76.20.035, 76.20.040, 76.12.050, 76.12.060, 76.12.065, 76.12.020, 76.12.080, 76.12.155, 76.12.030, 76.12.120, 76.12.125, 76.12.140, 76.12.090, 76.12.100, 76.12.035, 76.12.070, 76.12.067, 76.12.072, 76.12.073, 76.12.074, 76.12.075, 76.16.010, 76.16.020, 76.16.030, 76.16.040, 76.12.180, 76.12.110, 79.01.056, 79.01.060, 79.01.064, 79.01.736, 79.01.052, 79.01.004, 79.01.500, 79.01.740, 79.01.240, 79.01.765, 79.08.170, 79.01.093, 79.01.732, 79.01.308, 79.28.010, 79.28.020, 79.28.030, 79.01.076, 79.01.080, 79.01.304, 79.01.708, 79.01.712, 79.01.084, 79.01.720, 79.01.724, 79.01.220, 79.01.292, 79.01.236, 79.01.760, 79.01.748, 79.01.756, 79.01.752, 79.40.070, 79.40.080, 79.01.006, 79.01.007, 79.01.744, 79.01.074, 79.01.612, 79.68.110, 79.01.128, 79.01.164, 79.01.095, 79.68.010, 79.68.020, 79.68.050, 79.01.244, 79.68.090, 79.68.060, 79.68.100, 79.68.900, 79.68.910, 79.68.120, 79.68.035, 79.68.030, 79.68.040, 79.68.045, 79.60.010, 79.60.020, 79.60.030, 79.60.040, 79.60.050, 79.60.060, 79.60.070, 79.60.080, 79.60.090, 79.01.096, 79.01.094, 79.01.216,

79.01.088, 79.01.112, 79.01.120, 79.01.092, 79.01.200, 79.01.116, 79.01.136, 79.01.184, 79.01.188, 79.01.192, 79.01.204, 79.01.148, 79.01.196, 79.01.212, 79.01.208, 79.01.228, 79.01.224, 79.08.110, 79.01.100, 79.01.104, 79.01.108, 79.01.300, 79.01.301, 79.01.728, 79.01.242, 79.01.172, 79.08.120, 79.01.248, 79.01.284, 79.01.268, 79.12.570, 79.12.600, 79.12.610, 79.12.620, 79.12.630, 79.01.296, 79.28.040, 79.28.050, 79.28.070, 79.28.080, 79.12.015, 79.12.025, 79.12.055, 79.12.095, 79.01.2951, 79.01.295, 79.01.2955, 79.14.010, 79.14.020, 79.14.030, 79.14.040, 79.14.050, 79.14.060, 79.14.070, 79.14.080, 79.14.090, 79.14.100, 79.14.110, 79.14.120, 79.14.130, 79.14.140, 79.14.150, 79.14.160, 79.14.170, 79.14.180, 79.14.190, 79.14.200, 79.14.210, 79.14.220, 79.01.616, 79.01.617, 79.01.651, 79.01.618, 79.01.620, 79.01.624, 79.01.628, 79.01.632, 79.01.633, 79.01.634, 79.01.640, 79.01.642, 79.01.644, 79.01.645, 79.01.648, 79.01.649, 79.01.650, 79.01.652, 79.01.656, 79.01.660, 79.01.664, 79.01.668, 79.01.672, 79.01.676, 79.01.680, 79.01.684, 79.01.688, 79.01.692, 79.01.696, 79.14.900, 79.01.124, 79.01.160, 79.01.168, 79.01.082, 79.01.232, 79.01.238, 79.01.790, 79.01.795, 79.01.134, 79.01.176, 79.08.180, 79.08.070, 79.08.250, 79.08.015, 79.01.770, 79.01.774, 79.01.778, 79.01.780, 79.01.009, 79.66.010, 79.66.020, 79.66.030, 79.66.040, 79.66.050, 79.66.060, 79.66.070, 79.66.080, 79.66.090, 79.01.784, 79.66.100, 79.66.900, 79.66.901, 79.01.332, 79.01.414, 79.01.416, 79.01.312, 79.01.316, 79.01.320, 79.01.324, 79.01.328, 79.01.336, 79.01.340, 79.01.344, 79.01.348, 79.01.352, 79.01.356, 79.01.360, 79.01.364, 79.01.384, 79.01.388, 79.01.392, 79.01.396, 79.01.400, 79.01.404, 79.01.408, 79.01.412, 79.36.230, 79.36.240, 79.36.250, 79.36.260, 79.36.270, 79.36.280, 79.36.290, 79.64.010, 79.64.020, 79.64.030, 79.64.040, 79.64.050, 79.64.060, 79.64.070, 79.64.090, 79.12.035, 79.08.275, 79.08.277, 79.08.279, 79.08.281, 79.08.283, 79.08.284, 79.76.010, 79.76.110, 79.76.120, 79.76.130, 79.76.140, 79.76.150, 79.76.160, 79.76.170, 79.76.180, 79.76.190, 79.76.200, 79.76.210, 79.76.220, 79.76.230, 79.76.240, 79.76.250, 79.76.260, 79.76.270, 79.76.280, 79.76.290, 79.76.300, 79.76.900, 79.81.010, 79.81.020, 79.81.030, 79.81.040, 79.81.050, 79.81.060, 79.81.900, 79.24.580, 79.68.080, 79.08.260, 79.08.080, 79.08.090, 79.08.100, 79.01.800, 79.01.805, 79.01.810, and 79.01.815; repealing RCW 43.30.095, 76.01.020, 76.01.030, 76.12.015, 76.12.033, 79.01.036, 79.01.038, 79.01.048, 79.01.068, 79.01.072, 79.01.132, 79.01.133, 79.01.140, 79.01.152, 79.01.252, 79.01.256, 79.01.260, 79.01.264, 79.01.277, 79.01.704, 79.08.190, and 79.08.200; and prescribing penalties.

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

PART I
TITLE 43
AMENDMENTS

Sec. 101. RCW 43.12.025 and 1985 c 459 s 7 are each amended to read as follows:

The department (~~(of natural resources)~~) shall work with federal officials and private mine owners to ensure the prompt sealing of open holes and mine shafts that constitute a threat to safety.

Sec. 102. RCW 43.12.035 and 1985 c 459 s 8 are each amended to read as follows:

The owner of each mine shall make a map of the surface of the property. The owner of each active mine shall make a map of the underground workings. All maps shall be filed with the department (~~(of natural resources)~~). The department shall establish by rule the scale and contents required for the maps.

Sec. 103. RCW 43.12.055 and 1995 c 403 s 622 are each amended to read as follows:

Enforcement action taken after July 23, 1995, by the commissioner of public lands or the supervisor of natural resources shall be in accordance with RCW 43.05.100 and 43.05.110.

Sec. 104. RCW 43.30.040 and 1986 c 227 s 1 are each amended to read as follows:

The board shall consist of six members: The governor or the governor's designee, the superintendent of public instruction, the commissioner of public lands, the dean of the college of forest resources of the University of Washington, the dean of the college of agriculture of Washington State University, and a representative of those counties that contain state forest lands acquired or transferred under (~~chapter 76.12~~) RCW 76.12.020, 76.12.030, and 76.12.080 (as recodified by this act).

The county representative shall be selected by the legislative authorities of those counties that contain state forest lands acquired or transferred under (~~chapter 76.12~~) RCW 76.12.020, 76.12.030, and 76.12.080 (as recodified by this act). In the selection of the county representative, each participating county shall have one vote. The Washington state association of counties shall conduct a meeting for the purpose of making the selection and shall notify the board of the selection. The county representative shall be a duly elected member of a county legislative authority who shall serve a term of four years unless the representative should leave office for any reason. The initial term shall begin on July 1, 1986.

Sec. 105. RCW 43.30.060 and 1965 c 8 s 43.30.060 are each amended to read as follows:

The supervisor shall be appointed by the administrator with the advice and consent of the board. (~~He~~) The supervisor shall serve at the pleasure of the administrator.

Sec. 106. RCW 43.30.115 and 2000 c 148 s 4 are each amended to read as follows:

The park land trust revolving fund is to be utilized by the department (~~of natural resources~~) for the exclusive purpose of acquiring real property, including all reasonable costs associated with these acquisitions, as a replacement for the property transferred to the state parks and recreation commission, as directed by the legislature in order to maintain the land base of the affected trusts or under RCW 76.12.125 (as recodified by this act). Proceeds from transfers of real property to the state parks and recreation commission or other proceeds identified from transfers of real property as directed by the legislature shall be deposited in this fund. Disbursement from the park land trust revolving fund to acquire replacement property shall be on the authorization of the department (~~of natural resources~~). In order to maintain an effective expenditure and revenue control, the park land trust revolving fund is subject in all respects to chapter 43.88 RCW, but no appropriation is required to permit expenditures and payment of obligations from the fund.

Sec. 107. RCW 43.30.125 and 1988 c 127 s 3 are each amended to read as follows:

The department (~~of natural resources~~) shall assume full charge and supervision of the state geological survey and perform such other duties as may be prescribed by law.

Sec. 108. RCW 43.30.130 and 1965 c 8 s 43.30.130 are each amended to read as follows:

The department shall exercise all of the powers, duties, and functions now vested in the commissioner of public lands and such powers, duties, and functions are hereby transferred to the department(~~(= PROVIDED, That)~~).

However, nothing (~~(herein)~~) contained in this section shall effect (~~(his)~~) the commissioner's ex officio membership on any committee provided by law.

Sec. 109. RCW 43.30.138 and 1988 c 127 s 4 are each amended to read as follows:

The department (~~(of natural resources)~~) shall:

(1) Collect, compile, publish, and disseminate statistics and information relating to mining, milling, and metallurgy;

(2) Make special studies of the mineral resources and industries of the state;

(3) Collect and assemble an exhibit of mineral specimens, both metallic and nonmetallic, especially those of economic and commercial importance; such collection to constitute the museum of mining and mineral development;

(4) Collect and assemble a library pertaining to mining, milling, and metallurgy of books, reports, drawings, tracings, and maps and other information relating to the mineral industry and the arts and sciences of mining and metallurgy;

(5) Make a collection of models, drawings, and descriptions of the mechanical appliances used in mining and metallurgical processes;

(6) Issue bulletins and reports with illustrations and maps with detailed description of the natural mineral resources of the state;

(7) Preserve and maintain such collections and library open to the public for reference and examination and maintain a bureau of general information concerning the mineral and mining industry of the state, and issue from time to time at cost of publication and distribution such bulletins as may be deemed advisable relating to the statistics and technology of minerals and the mining industry;

(8) Make determinative examinations of ores and minerals, and consider other scientific and economical problems relating to mining and metallurgy;

(9) Cooperate with all departments of the state government, state educational institutions, the United States geological survey, and the United States bureau of mines. All departments of the state government and educational institutions shall render full cooperation to the department in compiling useful and scientific information relating to the mineral industry within and without the state, without cost to the department.

Sec. 110. RCW 43.30.141 and 1988 c 127 s 5 are each amended to read as follows:

The department (~~(of natural resources)~~) may receive on behalf of the state, for the benefit of mining and mineral development, gifts, bequests, devises, and legacies of real or personal property and use them in accordance with the wishes of the donors and manage, use, and dispose of them for the best interests of mining and mineral development.

Sec. 111. RCW 43.30.145 and 1988 c 127 s 6 are each amended to read as follows:

The department (~~(of natural resources)~~) may, from time to time, prepare special collections of ores and minerals representative of the mineral industry of the state to be displayed or used at any world fair, exposition, mining congress, or state exhibition, in order to promote information relating to the mineral wealth of the state.

Sec. 112. RCW 43.30.150 and 1988 c 128 s 10 are each amended to read as follows:

The board shall:

(1) Perform duties relating to appraisal, appeal, approval, and hearing functions as provided by law;

(2) Establish policies to ~~((insure))~~ ensure that the acquisition, management, and disposition of all lands and resources within the department's jurisdiction are based on sound principles designed to achieve the maximum effective development and use of such lands and resources consistent with laws applicable thereto;

(3) Constitute the board of appraisers provided for in Article 16, section 2 of the state Constitution;

(4) Constitute the commission on harbor lines provided for in Article 15, section 1 of the state Constitution as amended;

~~(5) ((Hold regular monthly meetings at such times as it may determine, and such special meetings as may be called by the chairman or majority of the board membership upon written notice to all members thereof: PROVIDED, That the board may dispense with any regular meetings, except that the board shall not dispense with two consecutive regular meetings;~~

~~(6))~~ Adopt and enforce ~~((such))~~ rules ~~((and regulations))~~ as may be deemed necessary and proper for carrying out the powers, duties, and functions imposed upon it by this chapter~~((;~~

~~(7) Employ and fix the compensation of such technical, clerical and other personnel as may be deemed necessary for the performance of its duties;~~

~~(8) Appoint such advisory committees as it may deem appropriate to advise and assist it to more effectively discharge its responsibilities. The members of such committees shall receive no compensation, but shall be entitled to reimbursement for travel expenses in attending committee meetings in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended;~~

~~(9) Meet and organize within thirty days after March 6, 1957 and on the third Monday of each January following a state general election at which the elected ex officio members of the board are elected. The board shall select its own chairman. The commissioner of public lands shall be the secretary of the board. The board may select a vice chairman from among its members. In the absence of the chairman and vice chairman at a meeting of the board, the members shall elect a chairman pro tem. No action shall be taken by the board except by the agreement of at least four members. The department and the board shall maintain its principal office at the capital;~~

~~(10) Be entitled to reimbursement individually for travel expenses incurred in the discharge of their official duties in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended)).~~

NEW SECTION. **Sec. 113.** A new section is added to chapter 43.30 RCW to read as follows:

The board shall:

(1) Hold regular monthly meetings at such times as it may determine, and such special meetings as may be called by the chair or majority of the board membership upon written notice to all members. However, the board may

dispense with any regular meetings, except that the board shall not dispense with two consecutive regular meetings;

(2) Employ and fix the compensation of technical, clerical, and other personnel as deemed necessary for the performance of its duties;

(3) Appoint such advisory committees as deemed appropriate to advise and assist it to more effectively discharge its responsibilities. The members of such committees shall receive no compensation, but are entitled to reimbursement for travel expenses in attending committee meetings in accordance with RCW 43.03.050 and 43.03.060;

(4) Meet and organize on the third Tuesday of each January following a state general election at which the elected ex officio members of the board are elected. The board shall select its own chair. The commissioner of public lands shall be the secretary of the board. The board may select a vice-chair from among its members. In the absence of the chair and vice-chair at a meeting of the board, the members shall elect a chair pro tem. No action shall be taken by the board except by the agreement of at least four members. The department and the board shall maintain its principal office at the capital;

(5) Be entitled to reimbursement individually for travel expenses incurred in the discharge of their official duties in accordance with RCW 43.03.050 and 43.03.060.

Sec. 114. RCW 43.30.160 and 1965 c 8 s 43.30.160 are each amended to read as follows:

The administrator shall have responsibility for performance of all the powers, duties, and functions of the department except those specifically assigned to the board. In the performance of ~~((his))~~ these powers, duties, and functions, the administrator shall conform to policies established by the board, and may employ and fix the compensation of such personnel as may be required to perform the duties of ~~((his))~~ this office.

Sec. 115. RCW 43.30.170 and 1965 c 8 s 43.30.170 are each amended to read as follows:

The supervisor shall:

(1) Be charged with the direct supervision of the department's activities as delegated ~~((to him))~~ by the administrator;

(2) Perform his or her duties in conformance with the policies established by the board;

(3) Organize the department, with approval of the administrator, into such subordinate divisions as ~~((he may))~~ the supervisor deems appropriate for the conduct of its operations;

(4) Employ and fix the compensation of such technical, clerical, and other personnel as may be required to carry on activities under his or her supervision;

(5) Delegate by order any ~~((of his))~~ assigned powers, duties, and functions to one or more deputies or assistants, as ~~((he may desire))~~ desired;

(6) Furnish before entering upon ~~((his))~~ the duties of this position a surety bond payable to the state in such amount as may be determined by the board, conditioned for the faithful performance of ~~((his))~~ duties and for ~~((his))~~ accounting of all moneys and property of the state that may come into ~~((his))~~ possession of or under ~~((his))~~ the control ~~((by virtue of his office))~~ of this position.

Sec. 116. RCW 43.30.180 and 1965 c 8 s 43.30.180 are each amended to read as follows:

The supervisor and ~~(his)~~ duly authorized deputies may administer oaths.

Sec. 117. RCW 43.30.260 and 1965 c 8 s 43.30.260 are each amended to read as follows:

Upon request by any state agency vested by law with the authority to acquire or manage real property, the department shall make available to such agency the facilities and services of the department ~~((of natural resources))~~ with respect to such acquisition or management, upon condition that such agency reimburse the department for the costs of such services.

Sec. 118. RCW 43.30.265 and 1992 c 167 s 1 are each amended to read as follows:

(1) The legislature finds that the department ~~((of natural resources))~~ has a need to maintain the real property asset base it manages and needs an accounting mechanism to complete transactions without reducing the real property asset base.

(2) The natural resources real property replacement account is created in the state treasury. This account shall consist of funds transferred or paid for the disposal or transfer of real property by the department ~~((of natural resources))~~ under RCW 79.01.009 (as recodified by this act). The funds in this account shall be used solely for the acquisition of replacement real property and may be spent only when, and as, authorized by legislative appropriation.

Sec. 119. RCW 43.30.270 and 1965 c 8 s 43.30.270 are each amended to read as follows:

All employees of the department ~~((of natural resources))~~ shall be governed by any merit system which is now or may hereafter be enacted by law governing such employment.

Sec. 120. RCW 43.30.280 and 1965 c 8 s 43.30.280 are each amended to read as follows:

A revolving fund in the custody of the state treasurer, to be known as the natural resources equipment fund, is hereby created to be expended by the department ~~((of natural resources))~~ without appropriation solely for the purchase of equipment, machinery, and supplies for the use of the department and for the payment of the costs of repair and maintenance of such equipment, machinery, and supplies.

Sec. 121. RCW 43.30.290 and 1965 c 8 s 43.30.290 are each amended to read as follows:

The natural resources equipment fund shall be reimbursed by the department ~~((of natural resources))~~ for all moneys expended from it. Reimbursement may be prorated over the useful life of the equipment, machinery, and supplies purchased by moneys from the fund. Reimbursement may be made from moneys appropriated or otherwise available to the department for the purchase, repair, and maintenance of equipment, machinery, and supplies and shall be prorated on the basis of relative benefit to the programs. For the purpose of making reimbursement, all existing and hereafter acquired equipment, machinery, and supplies of the department shall be deemed to have been purchased from the natural resources equipment fund.

Sec. 122. RCW 43.30.300 and 1987 c 472 s 13 are each amended to read as follows:

The department (~~(of natural resources)~~) is authorized:

(1) To construct, operate, and maintain primitive outdoor recreation and conservation facilities on lands under its jurisdiction which are of primitive character when deemed necessary by the department to achieve maximum effective development of such lands and resources consistent with the purposes for which the lands are held. This authority shall be exercised only after review by the interagency committee for outdoor recreation and determination by the committee that the department is the most appropriate agency to undertake such construction, operation, and maintenance. Such review is not required for campgrounds designated and prepared or approved by the department~~(-);~~;

(2) To acquire right of way and develop public access to lands under the jurisdiction of the department (~~(of natural resources)~~) and suitable for public outdoor recreation and conservation purposes~~(-);~~;

(3) To receive and expend funds from federal and state outdoor recreation funding measures for the purposes of (~~RCW 43.30.300 and 79.08.109~~) this section and RCW 79A.50.110.

**Sec. 123. RCW 43.30.310 and 1987 c 380 s 14 are each amended to read as follows:*

For the promotion of the public safety and the protection of public property, the department (~~(of natural resources)~~) may, in accordance with chapter 34.05 RCW, issue, (~~(promulgate,)~~) adopt, and enforce rules pertaining to use by the public of state-owned lands and property which are administered by the department.

A violation of any rule adopted under this section shall constitute a misdemeanor unless the department specifies by rule, when not inconsistent with applicable statutes, that violation of the rule is an infraction under chapter 7.84 RCW~~(- PROVIDED, That)~~. However, violation of a rule relating to traffic including parking, standing, stopping, and pedestrian offenses is a traffic infraction, except that violation of a rule equivalent to those provisions of Title 46 RCW set forth in RCW 46.63.020 remains a misdemeanor.

The commissioner of public lands and such (~~(of his)~~) employees as (~~he~~) the commissioner may designate shall be vested with police powers when enforcing:

(1) The rules of the department adopted under this section; or

(2) The general criminal statutes or ordinances of the state or its political subdivisions where enforcement is necessary for the protection of state-owned lands and property.

**Sec. 123 was vetoed. See message at end of chapter.*

Sec. 124. RCW 43.30.400 and 1992 c 63 s 10 are each amended to read as follows:

(1) The department (~~(of natural resources shall have)~~) has the following powers and duties in carrying out its responsibilities for the senior environmental corps created under RCW 43.63A.247:

(a) Appoint a representative to the coordinating council;

(b) Develop project proposals;

(c) Administer project activities within the agency;

- (d) Develop appropriate procedures for the use of volunteers;
- (e) Provide project orientation, technical training, safety training, equipment, and supplies to carry out project activities;
- (f) Maintain project records and provide project reports;
- (g) Apply for and accept grants or contributions for corps-approved projects; and
- (h) With the approval of the council, enter into memoranda of understanding and cooperative agreements with federal, state, and local agencies to carry out corps-approved projects.

(2) The department shall not use corps volunteers to displace currently employed workers.

Sec. 125. RCW 43.85.130 and 1981 2nd ex.s. c 4 s 1 are each amended to read as follows:

(1) The department shall deposit daily all moneys and fees collected or received by the commissioner (~~(of public lands)~~) and the department (~~(of natural resources)~~) in the discharge of official duties as follows:

(a) The department shall pay moneys received as advance payments, deposits, and security from successful bidders under section 334 of this act and RCW ((79.01.132 and)) 79.01.204 (as recodified by this act) to the state treasurer for deposit under (~~(subsection (1))~~)(b) of this (~~(section)~~) subsection. Moneys received from unsuccessful bidders shall be returned as provided in RCW 79.01.204 (as recodified by this act);

(b) The department shall pay all moneys received on behalf of a trust fund or account to the state treasurer for deposit in the trust fund or account after making the deduction authorized under RCW 76.12.030, 76.12.120, and 79.64.040 (as recodified by this act);

(c) The natural resources deposit fund is hereby created. The state treasurer is the custodian of the fund. All moneys or sums which remain in the custody of the commissioner of public lands awaiting disposition or where the final disposition is not known shall be deposited into the natural resources deposit fund. Disbursement from the fund shall be on the authorization of the commissioner or the commissioner's designee, without necessity of appropriation;

(d) If it is required by law that the department repay moneys disbursed under (~~(subsections (1))~~)(a) and (~~((1))~~)(b) of this (~~(section)~~) subsection the state treasurer shall transfer such moneys, without necessity of appropriation, to the department upon demand by the department from those trusts and accounts originally receiving the moneys.

(2) Money shall not be deemed to have been paid to the state upon any sale or lease of land until it has been paid to the state treasurer.

REPEALED SECTIONS

NEW SECTION. **Sec. 126.** RCW 43.30.095 (Enforcement in accordance with RCW 43.05.100 and 43.05.110) and 1995 c 403 s 625 are each repealed.

RECODIFIED SECTIONS

NEW SECTION. Sec. 127. RCW 43.30.310 is recodified as a section in chapter 43.12 RCW.

NEW SECTION. Sec. 128. A new chapter is added to Title 43 RCW. The following sections are recodified under the following subchapters:

(1) "General" as follows:

RCW 43.30.010;
RCW 43.30.020;
RCW 43.30.030; and
RCW 43.30.270.

(2) "Organization" as follows:

RCW 43.30.050; and
RCW 43.30.060.

(3) "Board of natural resources" as follows:

RCW 43.30.040;
RCW 43.30.150; and
Section 113 of this act.

(4) "Funds" as follows:

RCW 43.30.280;
RCW 43.30.290;
RCW 43.85.130;
RCW 43.30.360;
RCW 43.30.370; and
RCW 43.30.115.

(5) "Duties and powers—General" as follows:

RCW 43.30.130;
RCW 43.30.160;
RCW 43.30.170;
RCW 43.30.180;
RCW 43.30.355;
RCW 43.30.400;
RCW 43.30.410;
RCW 43.30.420;
RCW 43.30.210;
RCW 43.30.250; and
RCW 43.30.260.

(6) "Duties and powers—Mining and geology" as follows:

RCW 43.30.125;
RCW 43.30.138;
RCW 43.30.350;
RCW 43.12.025;
RCW 43.12.035;
RCW 43.30.141; and
RCW 43.30.145.

(7) "Duties and powers—Forested lands" as follows:

RCW 43.30.135.

NEW SECTION. Sec. 129. RCW 43.30.300 is recodified as a section in a new chapter in Title 79 RCW, created in section 555 of this act, under the subchapter heading "Multiple use."

NEW SECTION. Sec. 130. RCW 43.30.390 is recodified as a section in a new chapter in Title 79 RCW, created in section 555 of this act, under the subchapter heading "Sustainable harvest."

NEW SECTION. Sec. 131. RCW 43.30.265 is recodified as a section in a new chapter in Title 79 RCW, created in section 560 of this act, under the subchapter heading "Land transfer."

**PART 2
TITLE 76
AMENDMENTS**

Sec. 201. RCW 76.01.010 and 1988 c 128 s 12 are each amended to read as follows:

(1) The department (~~(of natural resources)~~) is (~~(hereby)~~) authorized to sell any real property not designated or acquired as state forest lands, but acquired by the state, either in the name of the forest board, the forestry board, or the division of forestry, for administrative sites, lien foreclosures, or other purposes whenever it shall determine that (~~(said)~~) the lands are no longer or not necessary for public use.

(2) The sale may be made after public notice to the highest bidder for such a price as approved by the governor, but not less than the fair market value of the real property, plus the value of improvements thereon. Any instruments necessary to convey title must be executed by the governor in a form approved by the attorney general.

(3) All amounts received from the sale must be credited to the fund of the department of government that is responsible for the acquisition and maintenance of the property sold.

Sec. 202. RCW 76.01.040 and 1988 c 128 s 13 are each amended to read as follows:

The department (~~(of natural resources)~~) is (~~(hereby)~~) authorized to receive funds from the federal government for cooperative work in management and protection of forests and forest and range lands as may be authorized by any act of Congress which is now, or may hereafter be, adopted for such purposes.

Sec. 203. RCW 76.01.050 and 1988 c 128 s 14 are each amended to read as follows:

The department (~~(of natural resources)~~) is (~~(hereby)~~) authorized to disburse such funds, together with any funds which may be appropriated or contributed from any source for such purposes, on management and protection of forests and forest and range lands.

Sec. 204. RCW 76.01.060 and 2000 c 11 s 1 are each amended to read as follows:

Any authorized assistants, employees, agents, appointees, or representatives of the department (~~(of natural resources)~~) may, in the course of their inspection and enforcement duties as provided for in chapters 76.04, 76.06, 76.09, (~~(76.16,)~~) and 76.36 RCW, enter upon any lands, real estate, waters, or premises

except the dwelling house or appurtenant buildings in this state whether public or private and remain thereon while performing such duties. Similar entry by the department (~~(of natural resources)~~) may be made for the purpose of making examinations, locations, surveys, and/or appraisals of all lands under the management and jurisdiction of the department (~~(of natural resources)~~); or for making examinations, appraisals and, after five days' written notice to the landowner, making surveys for the purpose of possible acquisition of property to provide public access to public lands. In no event other than an emergency such as fire fighting shall motor vehicles be used to cross a field customarily cultivated, without prior consent of the owner. None of the entries herein provided for shall constitute trespass, but nothing contained herein shall limit or diminish any liability which would otherwise exist as a result of the acts or omissions of (~~(said)~~) the department or its representatives.

Sec. 205. RCW 76.12.020 and 1988 c 128 s 23 are each amended to read as follows:

The department (~~(shall have)~~) has the power to accept gifts and bequests of money or other property, made in its own name, or made in the name of the state, to promote generally the interests of reforestation or for a specific named purpose in connection with reforestation, and to acquire in the name of the state, by purchase or gift, any lands which by reason of their location, topography, or geological formation, are chiefly valuable for purpose of developing and growing timber, and to designate such lands and any lands of the same character belonging to the state as state forest lands; and may acquire by gift or purchase any lands of the same character. The department (~~(shall have)~~) has the power to seed, plant, and develop forests on any lands, purchased, acquired, or designated by it as state forest lands, and shall furnish such care and fire protection for such lands as it shall deem advisable. Upon approval of the board of county commissioners of the county in which (~~(said)~~) the land is located such gift or donation of land may be accepted subject to delinquent general taxes thereon, and upon such acceptance of such gift or donation subject to such taxes, the department shall record the deed of conveyance thereof and file with the assessor and treasurer of the county wherein such land is situated, written notice of acquisition of such land, and that all delinquent general taxes thereon, except state taxes, shall be canceled, and the county treasurer shall thereupon proceed to make such cancellation in the records of (~~(his office)~~) the county treasurer. Thereafter, such lands shall be held in trust, protected, managed, and administered upon, and the proceeds therefrom disposed of, under RCW 76.12.030 (as recodified by this act).

Sec. 206. RCW 76.12.030 and 1997 c 370 s 1 are each amended to read as follows:

If any land acquired by a county through foreclosure of tax liens, or otherwise, comes within the classification of land described in RCW 76.12.020 (as recodified by this act) and can be used as state forest land and if the department deems such land necessary for the purposes of this chapter, the county shall, upon demand by the department, deed such land to the department and the land shall become a part of the state forest lands.

Such land shall be held in trust and administered and protected by the department in the same manner as other state forest lands. (~~(Any moneys~~

~~derived from the lease of such land or from the sale of forest products, oils, gases, coal, minerals, or fossils therefrom, shall be distributed as follows:~~

~~(1) The expense incurred by the state for administration, reforestation, and protection, not to exceed twenty-five percent, which rate of percentage shall be determined by the board of natural resources, shall be returned to the forest development account in the state general fund.~~

~~(2) Any balance remaining shall be paid to the county in which the land is located to be paid, distributed, and prorated, except as hereinafter provided, to the various funds in the same manner as general taxes are paid and distributed during the year of payment: PROVIDED, That any such balance remaining paid to a county with a population of less than sixteen thousand shall first be applied to the reduction of any indebtedness existing in the current expense fund of such county during the year of payment.)~~

NEW SECTION. Sec. 207. Any moneys derived from the lease of state forest lands or from the sale of valuable materials, oils, gases, coal, minerals, or fossils from those lands, must be distributed as follows:

(1) State forest lands acquired through RCW 76.12.030 (as recodified by this act) or by exchange for lands acquired through RCW 76.12.030 (as recodified by this act):

(a) The expense incurred by the state for administration, reforestation, and protection, not to exceed twenty-five percent, which rate of percentage shall be determined by the board, must be returned to the forest development account in the state general fund.

(b) Any balance remaining must be paid to the county in which the land is located to be paid, distributed, and prorated, except as otherwise provided in this section, to the various funds in the same manner as general taxes are paid and distributed during the year of payment.

(c) Any balance remaining, paid to a county with a population of less than sixteen thousand, must first be applied to the reduction of any indebtedness existing in the current expense fund of the county during the year of payment.

(d) With regard to moneys remaining under this subsection (1), within seven working days of receipt of these moneys, the department shall certify to the state treasurer the amounts to be distributed to the counties. The state treasurer shall distribute funds to the counties four times per month, with no more than ten days between each payment date.

(2) State forest lands acquired through RCW 76.12.020 (as recodified by this act) or by exchange for lands acquired through RCW 76.12.020 (as recodified by this act), except as provided in RCW 79.12.035 (as recodified by this act):

(a) Fifty percent shall be placed in the forest development account.

(b) Fifty percent shall be prorated and distributed to the state general fund, to be dedicated for the benefit of the public schools, and the county in which the land is located according to the relative proportions of tax levies of all taxing districts in the county. The portion to be distributed to the state general fund shall be based on the regular school levy rate under RCW 84.52.065 and the levy rate for any maintenance and operation special school levies. With regard to the portion to be distributed to the counties, the department shall certify to the state treasurer the amounts to be distributed within seven working days of receipt of the money. The state treasurer shall distribute funds to the counties four times

per month, with no more than ten days between each payment date. The money distributed to the county must be paid, distributed, and prorated to the various other funds in the same manner as general taxes are paid and distributed during the year of payment.

Sec. 208. RCW 76.12.035 and 1959 c 87 s 1 are each amended to read as follows:

Whenever any forest land which shall have been acquired by any county through the foreclosure of tax liens, or otherwise, and which shall have been acquired by the federal government either from said county or from the state holding said lands in trust, and shall be available for reacquisition, the ((state)) board ((of natural resources)) and the board of county commissioners of any such county are ((hereby)) authorized to enter into an agreement for the reacquisition of such lands as state forest lands in trust for such county. Such agreement shall provide for the price and manner of such reacquisition. The ((state)) board ((of natural resources)) is authorized to provide in such agreement for the advance of funds available to it for such purpose from the forest development account, all or any part of the price for such reacquisition so agreed upon, which advance shall be repaid at such time and in such manner as ((in said agreement)) provided in the agreement, solely from any distribution to be made to said county under the provisions of RCW 76.12.030 (as recodified by this act); that the title to said lands shall be retained by the state free from any trust until the state shall have been fully reimbursed for all funds advanced in connection with such reacquisition; and that in the event of the failure of the county to repay such advance in the manner provided, the said forest lands shall be retained by the state to be administered and/or disposed of in the same manner as other state forest lands free and clear of any trust interest therein by said county. Such county shall make provisions for the reimbursement of the various funds from any moneys derived from such lands so acquired, or any other county trust forest board lands which are distributable in a like manner, for any sums withheld from funds for other areas which would have been distributed thereto from time to time but for such agreement.

Sec. 209. RCW 76.12.050 and 1973 1st ex.s. c 50 s 1 are each amended to read as follows:

The board of county commissioners of any county and/or the mayor and city council or city commission of any city or town and/or the board ((of natural resources)) shall have authority to exchange, each with the other, or with the federal forest service, the federal government or any proper agency thereof and/or with any private landowner, county land of any character, land owned by municipalities of any character, and state forest land owned by the state under the jurisdiction of the department ((of natural resources)), for real property of equal value for the purpose of consolidating and blocking up the respective land holdings of any county, municipality, the federal government, or the state of Washington or for the purpose of obtaining lands having commercial recreational leasing potential.

Sec. 210. RCW 76.12.060 and 1961 c 77 s 2 are each amended to read as follows:

The commissioner ((of public lands)) shall, with the advice and approval of the attorney general, execute such agreements, writings, or relinquishments and

certify to the governor such deeds as are necessary or proper to complete an exchange ~~((as authorized by the board of natural resources under RCW 76.12.050)).~~

Sec. 211. RCW 76.12.065 and 1961 c 77 s 3 are each amended to read as follows:

Lands acquired by the state of Washington as the result of any exchange ~~((authorized under RCW 76.12.050))~~ shall be held and administered for the benefit of the same fund and subject to the same laws as were the lands exchanged therefor.

Sec. 212. RCW 76.12.070 and 1988 c 128 s 27 are each amended to read as follows:

Whenever any county shall have acquired by tax foreclosure, or otherwise, lands within the classification of RCW 76.12.020 (as recodified by this act) and shall have thereafter contracted to sell such lands to bona fide purchasers before the same may have been selected as forest lands by the department, and has heretofore deeded or shall hereafter deed because of inadvertence or oversight such lands to the state or to the department to be held under RCW 76.12.030 (as recodified by this act) or any amendment thereof; the department upon being furnished with a certified copy of such contract of sale on file in such county and a certificate of the county treasurer showing said contract to be in good standing in every particular and that all due payments and taxes have been made thereon, and upon receipt of a certified copy of a resolution of the board of county commissioners of such county requesting the reconveyance to the county of such lands, is hereby authorized to reconvey such lands to such county by quitclaim deed executed by the department. Such reconveyance of lands hereafter so acquired shall be made within one year from the conveyance thereof to the state or department.

Sec. 213. RCW 76.12.072 and 1983 c 3 s 195 are each amended to read as follows:

Whenever the board of county commissioners of any county shall determine that state forest lands, that were acquired from such county by the state pursuant to RCW 76.12.030 (as recodified by this act) and that are under the administration of the department ~~((of natural resources))~~, are needed by the county for public park use in accordance with the county and the state outdoor recreation plans, the board of county commissioners may file an application with the board ~~((of natural resources))~~ for the transfer of such state forest lands.

Upon the filing of an application by the board of county commissioners, the department ~~((of natural resources))~~ shall cause notice of the impending transfer to be given in the manner provided by RCW 42.30.060. If the department ~~((of natural resources))~~ determines that the proposed use is in accordance with the state outdoor recreation plan, it shall reconvey said state forest lands to the requesting county to have and to hold for so long as the state forest lands are developed, maintained, and used for the proposed public park purpose. This reconveyance may contain conditions to allow the department ~~((of natural resources))~~ to coordinate the management of any adjacent state owned lands with the proposed park activity to encourage maximum multiple use management and may reserve rights of way needed to manage other state owned lands in the area. The application shall be denied if the department ~~((of natural~~

resources)) finds that the proposed use is not in accord with the state outdoor recreation plan. If the land is not, or ceases to be, used for public park purposes the land shall be conveyed back to the department ((of natural resources)) upon request of the department.

Sec. 214. RCW 76.12.073 and 1969 ex.s. c 47 s 2 are each amended to read as follows:

The timber resources on any such state forest land transferred to the counties under RCW 76.12.072 (as recodified by this act) shall be managed by the department ((of natural resources)) to the extent that this is consistent with park purposes and meets with the approval of the board of county commissioners. Whenever the department ((of natural resources)) does manage the timber resources of such lands, it will do so in accordance with the general statutes relative to the management of all other state forest lands.

Sec. 215. RCW 76.12.074 and 1969 ex.s. c 47 s 3 are each amended to read as follows:

Under provisions mutually agreeable to the board of county commissioners and the board ((of natural resources)), lands approved for transfer to a county for public park purposes under the provisions of RCW 76.12.072 (as recodified by this act) shall be transferred to the county by deed.

Sec. 216. RCW 76.12.075 and 1969 ex.s. c 47 s 4 are each amended to read as follows:

The provisions of RCW 76.12.072 through 76.12.075 (as recodified by this act) shall be cumulative and nonexclusive and shall not repeal any other related statutory procedure established by law.

Sec. 217. RCW 76.12.090 and 2000 c 11 s 8 are each amended to read as follows:

For the purpose of acquiring and paying for lands for state forests and reforestation as herein provided the department may issue utility bonds of the state of Washington(~~, in an amount not to exceed two hundred thousand dollars in principal, during the biennium expiring March 31, 1925, and such other amounts~~) as may hereafter be authorized by the legislature. (~~Said bonds shall bear interest at not to exceed the rate of two percent per annum which shall be payable annually. Said bonds shall never be sold or exchanged at less than par and accrued interest, if any, and shall mature in not less than a period equal to the time necessary to develop a merchantable forest on the lands exchanged for said bonds or purchased with money derived from the sale thereof. Said~~) The bonds shall be known as state forest utility bonds. The principal or interest of ((said)) the bonds shall not be a general obligation of the state, but shall be payable only from the forest development account. The department may issue ((said)) the bonds in exchange for lands selected by it in accordance with RCW ((76.12.020, 76.12.030, 76.12.080, 76.12.090,)) 76.12.110(~~, 76.12.120, and 76.12.140~~) (as recodified by this act) and this chapter, or may sell ((said)) the bonds in such a manner as it deems advisable, and with the proceeds purchase and acquire such lands. Any of ((said)) the bonds issued in exchange and payment for any particular tract of lands may be made a first and prior lien against the particular land for which they are exchanged, and upon failure to pay ((said)) the bonds and interest thereon according to their terms, the lien of ((said)) the bonds may be foreclosed by appropriate court action.

Sec. 218. RCW 76.12.100 and 2000 c 11 s 9 are each amended to read as follows:

For the purpose of acquiring, seeding, reforestation, and administering land for forests and of carrying out RCW (~~(76.12.020, 76.12.030, 76.12.080, 76.12.090,)~~ 76.12.110(~~(, 76.12.120, and 76.12.140)~~)) (as recodified by this act) and the provisions of this chapter, the department is authorized to issue and dispose of utility bonds of the state of Washington in an amount not to exceed one hundred thousand dollars in principal during the biennium expiring March 31, 1951(~~(: PROVIDED, HOWEVER, That)~~). However, no sum in excess of one dollar per acre shall ever be paid or allowed either in cash, bonds, or otherwise, for any lands suitable for forest growth, but devoid of such, nor shall any sum in excess of three dollars per acre be paid or allowed either in cash, bonds, or otherwise, for any lands adequately restocked with young growth.

Any utility bonds issued under the provisions of this section may be retired from time to time, whenever there is sufficient money in the forest development account, said bonds to be retired at the discretion of the department either in the order of issuance, or by first retiring bonds with the highest rate of interest.

Sec. 219. RCW 76.12.110 and 2000 2nd sp.s. c 1 s 915 are each amended to read as follows:

There is created a forest development account in the state treasury. The state treasurer shall keep an account of all sums deposited therein and expended or withdrawn therefrom. Any sums placed in the forest development account shall be pledged for the purpose of paying interest and principal on the bonds issued by the department under RCW 76.12.090 and 76.12.100 (as recodified by this act) and the provisions of this chapter, and for the purchase of land for growing timber. Any bonds issued shall constitute a first and prior claim and lien against the account for the payment of principal and interest. No sums for the above purposes shall be withdrawn or paid out of the account except upon approval of the department.

Appropriations may be made by the legislature from the forest development account to the department for the purpose of carrying on the activities of the department on state forest lands, lands managed on a sustained yield basis as provided for in RCW 79.68.040 (as recodified by this act), and for reimbursement of expenditures that have been made or may be made from the resource management cost account in the management of state forest lands. (~~(For the 1999-2001 fiscal biennium, moneys from the account shall be distributed as directed in the omnibus appropriations act to the beneficiaries of the revenues derived from state forest lands. Funds that accrue to the state from such a distribution shall be deposited into the salmon recovery account. These funds shall be used for a grant program for cities and counties for the preservation and restoration of riparian, marine, and estuarine areas.))~~)

Sec. 220. RCW 76.12.120 and 2000 c 148 s 2 are each amended to read as follows:

Except as provided in RCW 76.12.125 (as recodified by this act), all land, acquired or designated by the department as state forest land, shall be forever reserved from sale, but the ~~((timber and other products))~~ valuable materials thereon may be sold or the land may be leased in the same manner and for the same purposes as is authorized for state ~~((granted))~~ lands if the department finds

such sale or lease to be in the best interests of the state and approves the terms and conditions thereof.

~~((Except as provided in RCW 79.12.035, all money derived from the sale of timber or other products, or from lease, or from any other source from the land, except where the Constitution of this state or RCW 76.12.030 requires other disposition, shall be disposed of as follows:~~

~~(1) Fifty percent shall be placed in the forest development account.~~

~~(2) Fifty percent shall be prorated and distributed to the state general fund, to be dedicated for the benefit of the public schools, and the county in which the land is located according to the relative proportions of tax levies of all taxing districts in the county. The portion to be distributed to the state general fund shall be based on the regular school levy rate under RCW 84.52.065 as now or hereafter amended and the levy rate for any maintenance and operation special school levies. With regard to the portion to be distributed to the counties, the department shall certify to the state treasurer the amounts to be distributed within seven working days of receipt of the money. The state treasurer shall distribute funds to the counties four times per month, with no more than ten days between each payment date. The money distributed to the county shall be paid, distributed, and prorated to the various other funds in the same manner as general taxes are paid and distributed during the year of payment.))~~

Sec. 221. RCW 76.12.125 and 2000 c 148 s 3 are each amended to read as follows:

(1) With the approval of the board ~~((of natural resources)),~~ the department may directly transfer or dispose of state forest lands ~~((acquired under this chapter))~~ without public auction, if such lands consist of ten contiguous acres or less, or have a value of twenty-five thousand dollars or less. Such disposal may only occur in the following circumstances:

(a) Transfers in lieu of condemnation; and

(b) Transfers to resolve trespass and property ownership disputes.

(2) Real property to be transferred or disposed of under this section shall be transferred or disposed of only after appraisal and for at least fair market value, and only if such transaction is in the best interest of the state or affected trust.

(3) The proceeds from real property transferred or disposed of under this section shall be deposited into the park land trust revolving fund and be solely used to buy replacement land within the same county as the property transferred or disposed.

Sec. 222. RCW 76.12.140 and 2000 c 11 s 10 are each amended to read as follows:

~~((Any))~~ State forest lands ~~((acquired by the state under RCW 76.12.020, 76.12.030, 76.12.080, 76.12.090, 76.12.110, 76.12.120, and 76.12.140, or any amendments thereto,))~~ shall be logged, protected, and cared for in such manner as to ~~((insure))~~ ensure natural reforestation of such lands, and to that end the department shall have power, and it shall be its duty to ~~((make))~~ adopt rules ~~((and regulations)),~~ and amendments thereto, governing logging operations on such areas, and to embody in any contract for the sale of timber on such areas, such conditions as it shall deem advisable, with respect to methods of logging, disposition of slashings, and debris, and protection and promotion of new forests. All such rules ~~((and regulations)),~~ or amendments thereto, shall be

adopted by the department under chapter 34.05 RCW. Any violation of any such rules shall be a gross misdemeanor unless the department has specified by rule, when not inconsistent with applicable statutes, that violation of a specific rule is an infraction under chapter 7.84 RCW.

Sec. 223. RCW 76.12.155 and 1988 c 128 s 34 are each amended to read as follows:

The ~~((commissioner of public lands))~~ department shall keep in ~~((his))~~ its office in a permanent bound volume a record of all forest lands acquired by the state and any lands owned by the state and designated as such by the department. The record shall show the date and from whom said lands were acquired; amount and method of payment therefor; the forest within which said lands are embraced; the legal description of such lands; the amount of money expended, if any, and the date thereof, for seeding, planting, maintenance, or care for such lands; the amount, date, and source of any income derived from such land; and such other information and data as may be required by the department.

Sec. 224. RCW 76.12.180 and 1981 c 204 s 5 are each amended to read as follows:

The department ~~((of natural resources))~~ may enter into agreements with the county to:

(1) Identify public roads used to provide access to state forest lands in need of improvement;

(2) Establish a time schedule for the improvements;

(3) Advance payments to the county to fund the road improvements ~~((: PROVIDED, That))~~. However, no more than fifty percent of the access road revolving fund shall be eligible for use as advance payments to counties. The department shall assess the fund on January 1st and July 1st of each year to determine the amount that may be used as advance payments to counties for road improvements; and

(4) Determine the equitable distribution, if any, of costs of such improvements between the county and the state through negotiation of terms and conditions of any resulting repayment to the fund or funds financing the improvements.

Sec. 225. RCW 76.12.240 and 1996 c 264 s 1 are each amended to read as follows:

(1) The legislature finds that the state's community and technical colleges need a dedicated source of revenue to augment other sources of capital improvement funding. The intent of this section is to ensure that the forest land purchased under section 310, chapter 16, Laws of 1990 1st ex. sess. and known as the community and technical college forest reserve land base, is managed in perpetuity and in the same manner as state forest lands for sustainable commercial forestry and multiple use of lands consistent with RCW 79.68.050 (as recodified by this act). These ~~((state))~~ lands will also be managed to provide an outdoor education and experience area for organized groups. The lands will provide a source of revenue for the long-term capital improvement needs of the state community and technical college system.

(2) There has been increasing pressure to convert forest lands within areas of the state subject to population growth. Loss of forest land in urbanizing areas reduces the production of forest products and the available supply of open space,

watershed protection, habitat, and recreational opportunities. The land known as the community and technical college forest reserve land base is forever reserved from sale. However, the timber and other products on the land may be sold, or the land may be leased in the same manner and for the same purposes as authorized for state granted lands if the department finds the sale or lease to be in the best interest of this forest reserve land base and approves the terms and conditions of the sale or lease.

(3) The land exchange and acquisition powers provided in RCW 76.12.050 (as recodified by this act) may be used by the department to reposition land within the community and technical college forest reserve land base consistent with subsection (1) of this section.

(4) Up to twenty-five percent of the revenue from these lands, as determined by the board (~~(of natural resources)~~), will be deposited in the forest development account to reimburse the forest development account for expenditures from the account for management of these lands.

(5) The community college forest reserve account, created under section 310, chapter 16, Laws of 1990 1st ex. sess., is renamed the community and technical college forest reserve account. The remainder of the revenue from these lands must be deposited in the community and technical college forest reserve account. Money in the account may be appropriated by the legislature for the capital improvement needs of the state community and technical college system or to acquire additional forest reserve lands.

Sec. 226. RCW 76.16.010 and 1963 c 140 s 1 are each amended to read as follows:

Whenever the department (~~(of natural resources, hereinafter referred to as the department, shall find it to be for)~~ finds that it is in the best interests of the state of Washington to acquire any property or use of a road in private ownership to afford access to state timber and other valuable material for the purpose of developing, caring for, or selling the same, the acquisition of such property, or use thereof, is hereby declared to be necessary for the public use of the state of Washington, and (~~(said)~~ the department is (~~(hereby)~~) authorized to acquire such property or the use of such roads by gift, purchase, exchange, or condemnation, and subject to all of the terms and conditions of such gift, purchase, exchange, or decree of condemnation to maintain such property or roads as part of the department's land management road system.

Sec. 227. RCW 76.16.020 and 1963 c 140 s 2 are each amended to read as follows:

The attorney general of the state of Washington is hereby required and authorized to condemn said property interests found to be necessary for the public purposes of the state of Washington, as provided in RCW 76.16.010 (as recodified by this act), and upon being furnished with a certified copy of the resolution of the department, describing said property interests found to be necessary for the purposes set forth in RCW 76.16.010 (as recodified by this act), the attorney general shall immediately take steps to acquire said property interests by exercising the state's right of eminent domain under the provisions of chapter 8.04 RCW, and in any condemnation action herein authorized, the resolution so describing the property interests found to be necessary for the purposes set forth above shall, in the absence of a showing of bad faith, arbitrary,

capricious, or fraudulent action, be conclusive as to the public use and real necessity for the acquisition of said property interests for a public purpose, and said property interests shall be awarded to the state without the necessity of either pleading or proving that the department was unable to agree with the owner or owners of said private property interest for its purchase. Any condemnation action herein authorized shall have precedence over all actions, except criminal actions, and shall be summarily tried and disposed of.

Sec. 228. RCW 76.16.030 and 1963 c 140 s 3 are each amended to read as follows:

In the event the department should determine that the property interests acquired under the authority of this chapter are no longer necessary for the purposes for which they were acquired, the department shall dispose of the same in the following manner, when in the discretion of the department it is to the best interests of the state of Washington to do so, except that property purchased with educational funds or held in trust for educational purposes shall be sold only in the same manner as are public lands of the state:

(1) Where the state property necessitating the acquisition of private property interests for access purposes under authority of this chapter is sold or exchanged, ~~((said))~~ the acquired property interests may be sold or exchanged as an appurtenance of ~~((said))~~ the state property when it is determined by the department that sale or exchange of ~~((said))~~ the state property and acquired property interests as one parcel is in the best interests of the state.

(2) If ~~((said))~~ the acquired property interests are not sold or exchanged as provided in ~~((the preceding))~~ subsection (1) of this section, the department shall notify the person or persons from whom the property interest was acquired, stating that ~~((said))~~ the property interests are to be sold, and that ~~((said))~~ the person or persons shall have the right to purchase the same at the appraised price. ~~((Said))~~ The notice shall be given by registered letter or certified mail, return receipt requested, mailed to the last known address of ~~((said))~~ the person or persons. If the address of ~~((said))~~ the person or persons is unknown, ~~((said))~~ the notice shall be published twice in an official newspaper of general circulation in the county where the lands or a portion thereof is located. The second notice shall be published not less than ten nor more than thirty days after the notice is first published. ~~((Said))~~ The person or persons shall have thirty days after receipt of the registered letter or five days after the last date of publication, as the case may be, to notify the department, in writing, of their intent to purchase the offered property interest. The purchaser shall include with his or her notice of intention to purchase, cash payment, certified check, or money order in an amount not less than one-third of the appraised price. No instrument conveying property interests shall issue from the department until the full price of the property is received by ~~((said))~~ the department. All costs of publication required under this section shall be added to the appraised price and collected by the department upon sale of ~~((said))~~ the property interests.

(3) If ~~((said))~~ the property interests are not sold or exchanged as provided in ~~((the preceding))~~ subsections (1) and (2) of this section, the department shall notify the owners of land abutting ~~((said))~~ the property interests in the same manner as provided in ~~((the preceding))~~ subsection (2) of this section and their notice of intent to purchase shall be given in the manner and in accordance with the same time limits as are set forth in ~~((the preceding))~~ subsection (2) (:

~~PROVIDED, That~~) of this section. However, if more than one abutting owner gives notice of intent to purchase ~~((said))~~ the property interests, the department shall apportion them in relation to the lineal footage bordering each side of the property interests to be sold, and apportion the costs to the interested purchasers in relation thereto~~((:—PROVIDED FURTHER, That))~~. Further, no sale is authorized by this section unless the department is satisfied that the amounts to be received from the several purchasers will equal or exceed the appraised price of the entire parcel plus any costs of publishing notices.

(4) If no sale or exchange is consummated as provided in subsections (1)~~((;~~ ~~(2) and~~) through (3) ~~((hereof))~~ of this section, the department shall sell ~~((said))~~ the properties in the same manner as ~~((public))~~ state lands ~~((of the state of Washington))~~ are sold.

(5) Any disposal of property interests authorized by this chapter shall be subject to any existing rights previously granted by the department.

Sec. 229. RCW 76.16.040 and 1963 c 140 s 4 are each amended to read as follows:

The department in acquiring any property interests under the provisions of this chapter, either by purchase or condemnation, is hereby authorized to pay for the same out of any moneys available to the department ~~((of natural resources))~~ for this purpose.

Sec. 230. RCW 76.20.010 and 1975 c 10 s 1 are each amended to read as follows:

The department ~~((of natural resources))~~ may issue licenses to residents of this state to enter upon lands under the administration or jurisdiction of the department ~~((of natural resources))~~ for the purpose of removing therefrom, standing or downed timber which is unfit for any purpose except to be used as firewood.

Sec. 231. RCW 76.20.020 and 1945 c 97 s 2 are each amended to read as follows:

In addition to other matters which may be required to be contained in the application for a license under this chapter the applicant must certify that the wood so removed is to be only for ~~((his))~~ the applicant's own personal use and in his or her own home and that ~~((he))~~ the applicant will not dispose of it to any other person.

Sec. 232. RCW 76.20.030 and 1975 c 10 s 2 are each amended to read as follows:

The application may be made to the department ~~((of natural resources))~~, and if deemed proper, the license may be issued upon the payment of two dollars and fifty cents which shall be paid into the treasury of the state by the officer collecting the same and placed in the resource management cost account or forest development account, as applicable; the license shall be dated as of the date of issuance and authorize the holder thereof to remove between the dates so specified not more than six cords of wood not fit for any use but as firewood for the use of ~~((himself and))~~ the applicant and his or her family from the premises described in the license under such ~~((regulations))~~ rules as the department ~~((of natural resources))~~ may ~~((prescribe))~~ adopt.

Sec. 233. RCW 76.20.035 and 1975 c 10 s 3 are each amended to read as follows:

Whenever the department (~~(of natural resources)~~) determines that it is in the best interest of the state and there will be a benefit to the lands involved or a state program affecting such lands it may designate specific areas and authorize the general public to enter upon lands under its jurisdiction for the purposes of cutting and removing standing or downed timber for use as firewood for the personal use of the person so cutting and removing without a charge under such terms and conditions as it may require.

Sec. 234. RCW 76.20.040 and 1945 c 97 s 4 are each amended to read as follows:

Any false statement made in the application or any violation of the provisions of ~~((this chapter))~~ RCW 76.20.010 through 76.20.035 (as recodified by this act) shall constitute a gross misdemeanor and be punishable as such.

REPEALED SECTIONS

NEW SECTION. Sec. 235. The following acts or parts of acts are each repealed:

- (1) RCW 76.01.020 (Sale of other than state forest lands—Procedure) and 1955 c 121 s 2;
- (2) RCW 76.01.030 (Sale of other than state forest lands—Disposition of revenue) and 1955 c 121 s 3;
- (3) RCW 76.12.015 ("Department" defined) and 1988 c 128 s 22; and
- (4) RCW 76.12.033 (Remaining moneys—Certification—Distribution) and 1998 c 71 s 1.

RECODIFIED SECTIONS

NEW SECTION. Sec. 236. RCW 76.01.040 and 76.01.050 are each recodified as sections in a new chapter in Title 43 RCW, created in section 128 of this act, under the subchapter heading "Funds."

NEW SECTION. Sec. 237. RCW 76.01.060 is recodified as a section in a new chapter in Title 43 RCW, created in section 128 of this act, under the subchapter heading "Duties and powers—General."

NEW SECTION. Sec. 238. RCW 76.12.160 and 76.12.170 are each recodified as sections in a new chapter in Title 43 RCW, created in section 128 of this act, under the subchapter heading "Duties and powers—Forested lands."

NEW SECTION. Sec. 239. RCW 76.12.205, 76.12.210, 76.12.220, and 76.12.230 are each recodified as sections in a new chapter in Title 43 RCW, created in section 128 of this act, under the subchapter heading "Olympic natural resources center."

NEW SECTION. Sec. 240. RCW 76.12.240 is recodified as a section in a new chapter added to Title 79 RCW, created in section 554 of this act, under the subchapter heading "Other trust/grant/forest reserve lands."

NEW SECTION. Sec. 241. RCW 76.12.040 and 76.12.045 are each recodified as sections in a new chapter added to Title 79 RCW, created in section 555 of this act, under the subchapter heading "General provisions."

NEW SECTION. Sec. 242. RCW 76.01.010 is recodified as a section in a new chapter added to Title 79 RCW, created in section 556 of this act, under the subchapter heading "Sale procedures."

NEW SECTION. Sec. 243. RCW 76.20.010, 76.20.020, 76.20.030, 76.20.035, and 76.20.040 are each recodified as sections in a new chapter added to Title 79 RCW, created in section 559 of this act, under the subchapter heading "Firewood."

NEW SECTION. Sec. 244. RCW 76.12.050, 76.12.060, and 76.12.065 are each recodified as sections in a new chapter added to Title 79 RCW, created in section 560 of this act, under the subchapter heading "Exchanges."

NEW SECTION. Sec. 245. RCW 76.12.020, 76.12.080, 76.12.155, 76.12.030, 76.12.120, 76.12.125, 76.12.140, 76.12.090, 76.12.100, 76.12.035, 76.12.070, and 76.12.067 are each recodified as sections in a new chapter added to Title 79 RCW, entitled "Acquisition, management, and disposition of state forest lands," created in section 562 of this act, under the subchapter heading "General provisions."

NEW SECTION. Sec. 246. RCW 76.12.072, 76.12.073, 76.12.074, and 76.12.075 are each recodified as sections in a new chapter added to Title 79 RCW, entitled "Acquisition, management, and disposition of state forest lands," created in section 562 of this act, under the subchapter heading "Transfers of state forest lands for public park purposes."

NEW SECTION. Sec. 247. RCW 76.16.010, 76.16.020, 76.16.030, and 76.16.040 are each recodified as sections in chapter 79.36 RCW, under the subchapter heading "Acquisition."

NEW SECTION. Sec. 248. RCW 76.12.180 is recodified as a section in chapter 79.38 RCW.

NEW SECTION. Sec. 249. (1) RCW 76.12.110 is recodified as a section in chapter 79.64 RCW under the subchapter heading "State forest lands."

(2) Section 207 of this act is added to chapter 79.64 RCW under the subchapter heading "State forest lands."

PART 3 TITLE 79 AMENDMENTS

Sec. 301. RCW 79.01.004 and 1927 c 255 s 1 are each amended to read as follows:

The definitions in this section apply throughout this title unless the context clearly requires otherwise.

(1) "Aquatic lands" means all state-owned tidelands, shorelands, harbor areas, and the beds of navigable waters as defined in chapter 79.90 RCW that are managed by the department.

(2) "Board" means the board of natural resources.

(3) "Commissioner" means the commissioner of public lands.

(4) "Community and technical college forest reserve lands" means lands managed under RCW 76.12.240 (as recodified by this act).

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

(6) "Improvements," when referring to state lands, means anything considered a fixture in law placed upon or attached to such lands that has changed the value of the lands or any changes in the previous condition of the fixtures that changes the value of the lands.

(7) "Land bank lands" means lands acquired under RCW 79.66.020 (as recodified by this act).

(8) "Person" means an individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of a federal, state, or local governmental unit, however designated.

(9) "Public lands" means lands of the state of Washington ((are)) and includes lands belonging to or held in trust by the state, which are not devoted to or reserved for a particular use by law((, and)). They include state lands, tidelands, shorelands, and harbor areas as ((hereinafter)) defined in chapter 79.90 RCW, and the beds of navigable waters belonging to the state.

(~~Whenever used in this chapter the term~~) (10) "State forest lands" means lands acquired under RCW 76.12.020, 76.12.030, and 76.12.080 (as recodified by this act).

(11) "State lands" (~~shall mean and~~) includes:

(a) School lands, that is, lands held in trust for the support of the common schools;

(b) University lands, that is, lands held in trust for university purposes;

(c) Agricultural college lands, that is, lands held in trust for the use and support of agricultural colleges;

(d) Scientific school lands, that is, lands held in trust for the establishment and maintenance of a scientific school;

(e) Normal school lands, that is, lands held in trust for state normal schools;

(f) Capitol building lands, that is, lands held in trust for the purpose of erecting public buildings at the state capital for legislative, executive, and judicial purposes;

(g) Institutional lands, that is, lands held in trust for state charitable, educational, penal, and reformatory institutions; and

(h) All public lands of the state, except tidelands, shorelands, harbor areas, and the beds of navigable waters.

(12) "Valuable materials," when referring to state lands or state forest lands, means any product or material on the lands, such as forest products, forage or agricultural crops, stone, gravel, sand, peat, and all other materials of value except mineral, coal, petroleum, and gas as provided for under chapter 79.14 RCW.

NEW SECTION. Sec. 302. (1) The board or the commissioner has the power to compel through subpoena the attendance of witnesses and production of records for:

(a) Hearings pertaining to public lands as provided by this title;

(b) Determining the value and character of land, valuable materials, or improvements; and

(c) Determining waste or damage to the land.

(2) A subpoena may be served by any person authorized by law to serve process.

(3) Each witness subpoenaed is allowed the same fees and mileage as paid witnesses in courts of records in this state. The department shall pay these fees and mileage from its general fund appropriation.

(4) Any witness failing to comply with a subpoena, without legal excuse, is considered in contempt.

(a) The board or commissioner shall certify the facts to the court of the county in which the witness resides for contempt of court proceedings as provided in chapter 7.21 RCW.

(b) The certificate of the board or commissioner must be considered by the court as prima facie evidence of the guilt of the witness.

(c) Upon legal proof of the facts, the witness is subject to the same penalties as provided in like cases for contempt of court.

Sec. 303. RCW 79.01.007 and 1991 c 204 s 5 are each amended to read as follows:

Where ~~((C.E.P. & R.I.))~~ charitable, educational, penal, and reformatory institutions land has the potential for lease for commercial, industrial, or residential uses or other uses with the potential for high economic return and is within urban or suburban areas, the department ~~((of natural resources))~~ shall make every effort consistent with trust land management principles and all other provisions of law to lease the lands for such purposes, unless the land is subject to a lease to a state agency operating an existing state institution. The department ~~((of natural resources))~~ is authorized, subject to approval by the board ~~((of natural resources))~~ and only if a higher return can be realized, to exchange such lands for lands of at least equal value and to sell such lands and use the proceeds to acquire replacement lands. The department shall report to the appropriate legislative committees all ~~((C.E.P. & R.I.))~~ charitable, educational, penal, and reformatory institutions land purchased, sold, or exchanged. Income from the leases shall be deposited in the charitable, educational, penal, and reformatory institutions account. The legislature shall give priority consideration to appropriating one-half of the money derived from lease income to providing community housing for persons who are mentally ill, developmentally disabled, or youth who are blind, deaf, or otherwise disabled.

Sec. 304. RCW 79.01.052 and 1988 c 128 s 51 are each amended to read as follows:

(1) The board ~~((of natural resources))~~ shall keep its records in the office of the commissioner ~~((of public lands))~~, and shall keep a full and complete record of its proceedings relating to the appraisal of lands granted for educational purposes~~((, and))~~.

(2) Records for all forest lands acquired by the state and any lands owned by the state and designated as such by the department must be maintained by the department as provided in RCW 76.12.155 (as recodified by this act).

(3) The board shall have the power, from time to time, to make and enforce rules ~~((and regulations))~~ for ~~((the))~~ carrying out ~~((of))~~ the provisions of this ~~((chapter))~~ title relating to its duties not inconsistent with law.

Sec. 305. RCW 79.01.056 and 1927 c 255 s 14 are each amended to read as follows:

The commissioner ~~((of public lands))~~ shall have the power to appoint an assistant, who shall be deputy commissioner of public lands with power to

perform any act or duty relating to the office of the commissioner, and, in case of vacancy by death or resignation of the commissioner, shall perform the duties of the office until the vacancy is filled, and shall act as chief clerk in the office of the commissioner (~~((of public lands)),~~ and, before ~~((entering upon his))~~ performing any duties, shall take, subscribe, and file in the office of the secretary of state the oath of office required by law of state officers.

Sec. 306. RCW 79.01.060 and 1927 c 255 s 15 are each amended to read as follows:

The commissioner (~~((of public lands))~~) shall have the power to appoint an auditor and cashier (~~((, and an assistant auditor and cashier, and to appoint and employ such number of state land inspectors, who shall be citizens of the state of Washington familiar with the work of inspecting and appraising lands,))~~) and such number of ~~((engineers, draftsmen, clerks and))~~ other assistants, as ~~((he may))~~ the commissioner deems necessary for the performance of the duties of ~~((his))~~ the office.

Sec. 307. RCW 79.01.064 and 1927 c 255 s 16 are each amended to read as follows:

The commissioner (~~((of public lands))~~) and ~~((his appointees))~~ those appointed by the commissioner shall enter into good and sufficient surety company bonds as required by law, in the following sums: Commissioner (~~((of public lands)),~~ fifty thousand dollars; ~~((auditor and cashier, twenty thousand dollars; assistant auditor and cashier, ten thousand dollars; each state land inspector, five thousand dollars;))~~) and other appointees in such sum as may be fixed in the manner provided by law.

Sec. 308. RCW 79.01.080 and 1927 c 255 s 20 are each amended to read as follows:

In case any person interested in any tract of land heretofore selected by the territory of Washington or any officer, board, or agent thereof or by the state of Washington or any officer, board, or agent thereof or which may be hereafter selected by the state of Washington or the ~~((commissioner of public lands))~~ department, in pursuance to any grant of public lands made by the United States to the territory or state of Washington for any purpose or upon any trust whatever, the selection of which has failed or been rejected or shall fail or shall be rejected for any reason, shall request it, the ~~((commissioner of public lands))~~ department shall have the authority and power on behalf of the state to relinquish to the United States such tract of land.

Sec. 309. RCW 79.01.082 and 2001 c 250 s 10 are each amended to read as follows:

For the purposes of this ~~((title))~~ chapter, "appraisal" means an estimate of the market value of land or valuable materials. The estimate must reflect the value based on market conditions at the time of the sale or transfer offering. The appraisal must reflect the department's ~~((of natural resources'))~~ best effort to establish a reasonable market value for the purpose of setting a minimum bid at auction or transfer. A purchaser of state lands or valuable materials may not rely upon the appraisal prepared by the department ~~((of natural resources))~~ for purposes of deciding whether to make a purchase from the department. All purchasers are required to make their own independent appraisals.

Sec. 310. RCW 79.01.084 and 2001 c 250 s 1 are each amended to read as follows:

The (~~commissioner of public lands~~) department shall cause to be prepared, and furnish to applicants, blank forms of applications for the appraisal, transfer, and purchase of any state lands and the purchase of valuable materials situated thereon, and for the lease of state lands. These forms shall contain instructions to inform and aid applicants.

Sec. 311. RCW 79.01.088 and 1982 1st ex.s. c 21 s 151 are each amended to read as follows:

Any person desiring to purchase any state lands (~~(, or to purchase any timber, fallen timber, stone, gravel, or other valuable materials situated on state lands, or to lease any state lands,)~~) shall file (~~(in the office of the commissioner of public lands)~~) an application (~~(,)~~) on the (~~(proper)~~) forms (~~(which shall be)~~) provided by the department and accompanied by ((reasonable)) the fees ((to be prescribed by the board of natural resources in an amount sufficient to defray the cost of performing or otherwise providing for the processing, review, or inspection of the applications or activities permitted pursuant to the applications for each category of services performed. These fees shall be credited to the resource management cost account (RMCA) fund as established under RCW 79.64.010 in the general fund)) authorized under section 313 of this act.

NEW SECTION. Sec. 312. A person desiring to purchase valuable materials may make application to the department on forms provided by the department and accompanied by the fee provided in section 313 of this act.

NEW SECTION. Sec. 313. (1) Applications for the purchase or use of lands and the sale of valuable materials by the department shall be accompanied by reasonable fees to be prescribed by the board in an amount sufficient to defray the cost of performing or otherwise providing for the processing, review, or inspection of the applications or activities permitted pursuant to the applications for each category of services performed.

(2) Fees shall be credited to the resource management cost account fund as established under RCW 79.64.020 (as recodified by this act), the forest development account fund as established under RCW 76.12.110 (as recodified by this act), or the agricultural college trust management account fund as established under RCW 79.64.090 (as recodified by this act), as applicable.

Sec. 314. RCW 79.01.092 and 1979 ex.s. c 109 s 3 are each amended to read as follows:

When in the judgment of the department (~~(of natural resources)~~), there is sufficient interest for the appraisal and sale (~~(, or the lease, for any lawful purpose, excepting mining of valuable minerals or coal, or extraction of petroleum or gas,)~~) of state lands, the department shall cause each tract of land to be inspected as to its topography, development potential, forestry, agricultural, and grazing qualities, coal, mineral, stone, gravel, or other valuable material, the distance from any city or town, railroad, river, irrigation canal, ditch, or other waterway, and location of utilities. In case of an application to purchase land granted to the state for educational purposes, the department shall submit a report to the board (~~(of natural resources)~~), which board shall fix the value per acre of each lot, block, subdivision, or tract proposed to be sold in one parcel, which value shall be not less than ten dollars per acre. In case of applications to

purchase state lands, other than lands granted to the state for educational purposes and capitol building lands, the department shall appraise and fix the value thereof. ~~((In case of interest for the lease of state lands, for any lawful purposes other than that of mining for valuable minerals or coal, or extraction of petroleum or gas, the department shall fix the rental value thereof, and only improvements authorized in writing by the department of natural resources or consistent with the approved plan of development shall be placed on state lands under lease and these improvements shall become the property of the state at the expiration or termination of the lease unless otherwise agreed upon under the terms of the lease: PROVIDED, That these improvements may be required by the department of natural resources to be removed at the end of the lease term by the lessee at his expense. Any improvements placed upon any state lands without the written authority of the commissioner of public lands shall become the property of the state and be considered part of the land.))~~

NEW SECTION. Sec. 315. (1) Only improvements authorized in writing by the department or consistent with the approved plan of development may be placed on the state lands under lease. Improvements are subject to the following conditions:

(a) A minimum reasonable time must be allowed for completion of the improvements;

(b) Improvements become the property of the state at the expiration or termination of the lease unless otherwise agreed upon under the terms of the lease; and

(c) The department may require improvements to be removed at the end of the lease term at the lessee's expense.

(2) Any improvements placed upon any state lands without the written authority of the department become the property of the state and are considered part of the land, unless required to be removed by the lessee under subsection (1)(c) of this section.

NEW SECTION. Sec. 316. (1) When in the judgment of the department there is sufficient interest for the lease of state lands, it must inspect each tract of land as to its topography, development potential, forestry, agricultural, and grazing qualities; the presence of coal, mineral, stone, gravel, or other valuable materials; the distance from any city or town, railroad, river, irrigation canal, ditch, or other waterway; and location of utilities.

(2) The department may survey any state lands to determine the area subject to lease.

(3) It is the duty of the department to prepare all reports, data, and information in its records pertaining to any proposed lease.

(4) The department may order that any particular application for a lease be held in abeyance pending further inspection and report by the department. Based on the further inspection and report, the department must determine whether or not, and the terms upon which, the proposed lease is consummated.

Sec. 317. RCW 79.01.093 and 1979 ex.s. c 109 s 22 are each amended to read as follows:

RCW 79.01.092, 79.01.096, 79.01.136, 79.01.140, 79.01.148, 79.01.244, 79.01.248, 79.01.252, 79.01.256, 79.01.260, 79.01.264, 79.01.268, 79.01.724, 79.12.570, 79.28.080, 79.01.242, and 79.01.277 (as recodified by this act) do not

apply to state tidelands, shorelands, harbor areas, and the beds of navigable waters.

Sec. 318. RCW 79.01.094 and 1988 c 128 s 54 are each amended to read as follows:

The department (~~(of natural resources)~~) shall exercise general supervision and control over the sale (~~(or lease)~~) for any purpose of land granted to the state for educational purposes (~~(and also over the sale of timber, fallen timber, stone, gravel and all other valuable materials situated thereon)~~). It shall be the duty of the department to prepare all reports, data, and information in its records pertaining to any such proposed sale (~~(or lease)~~). The department shall have power, if it deems it advisable, to order that any particular sale (~~(or lease)~~) of such land (~~(or valuable materials)~~) be held in abeyance pending further inspection and report. The department may cause such further inspection and report of land (~~(or materials)~~) involved in any proposed sale (~~(or lease)~~) to be made and for that purpose shall have power to employ its own inspectors, cruisers, and other technical assistants. Upon the basis of such further inspection and report the department shall determine whether or not, and the terms upon which, the proposed sale (~~(or lease)~~) shall be consummated.

NEW SECTION. Sec. 319. (1) The department shall exercise general supervision and control over the sale of valuable materials.

(2) The department shall maintain all reports, data, and information in its records pertaining to a proposed sale.

(3) The department may hold a sale in abeyance pending further inspection and report and may cause such further inspection and report.

(4) The department shall determine, based on subsection (2) of this section, and if necessary the information provided under subsection (3) of this section, the terms upon which the proposed sales are consummated.

Sec. 320. RCW 79.01.095 and 1969 ex.s. c 131 s 1 are each amended to read as follows:

Periodically at intervals to be determined by the board (~~(of natural resources)~~), the (~~(commissioner of public lands)~~) department shall cause an economic analysis to be made of those state lands held in trust, where the nature of the trust makes maximization of the economic return to the beneficiaries of income from state lands the prime objective. The analysis shall be by specific tracts, or where such tracts are of similar economic characteristics, by groupings of such tracts.

The most recently made analysis shall be considered by the department (~~(of natural resources)~~) in making decisions as to whether to sell or lease state lands, standing timber or crops thereon, or minerals therein, including but not limited to oil and gas and other hydrocarbons, rocks, gravel, and sand.

The economic analysis shall include, but shall not be limited to the following criteria: (1) Present and potential sale value; (2) present and probable future returns on the investment of permanent state funds; (3) probable future inflationary or deflationary trends; (4) present and probable future income from leases or the sale of land products; and (5) present and probable future tax income derivable therefrom specifically including additional state, local, and other tax revenues from potential private development of land currently used primarily for grazing and other similar low priority use; such private

development would include, but not be limited to, development as irrigated agricultural land.

Sec. 321. RCW 79.01.096 and 1982 c 54 s 1 are each amended to read as follows:

(1) Not more than one hundred and sixty acres of any land granted to the state by the United States shall be offered for sale in one parcel and no university lands shall be offered for sale except by legislative directive or with the consent of the board of regents of the University of Washington.

(2) Any land granted to the state by the United States may be sold ((or leased)) for any lawful purpose in such minimum acreage as may be fixed by the department ((of natural resources)).

~~((Except as otherwise provided in RCW 79.01.770, upon the application of a school district or any institution of higher education for the purchase or lease of lands granted to the state by the United States, the department of natural resources may offer such land for sale or lease to such school district or institution of higher education in such acreage as it may determine, consideration being given upon application of a school district to school site criteria established by the state board of education: PROVIDED, That in the event the department thereafter proposes to offer such land for sale or lease at public auction such school district or institution of higher education shall have a preference right for six months from notice of such proposal to purchase or lease such land at the appraised value determined by the board of natural resources.~~

~~State lands shall not be leased for a longer period than ten years: PROVIDED, That such lands may be leased for the purpose of prospecting for, developing and producing oil, gas and other hydrocarbon substances or for the mining of coal subject to the provisions of chapter 79.14 RCW and RCW 79.01.692. Such lands may be leased for agricultural purposes for any period not to exceed twenty five years except that such leases which authorize tree fruit and grape production may be for any period up to fifty five years. Such lands may be leased for public school, college or university purposes for any period not exceeding seventy five years. Such lands may be leased for commercial, industrial, business, or recreational purposes for any period not exceeding fifty five years. Such lands may be leased for residential purposes for any period not to exceed ninety nine years. If during the term of the lease of any state lands for agricultural, grazing, commercial, residential, business, or recreational purposes, in the opinion of the department it is in the best interest of the state so to do, the department may, on the application of the lessee and in agreement with the lessee, alter and amend the terms and conditions of such lease. The sum total of the original lease term and any extension thereof shall not exceed the limits provided herein:))~~

NEW SECTION. Sec. 322. Except as otherwise provided in RCW 79.01.770 (as recodified by this act), upon the application of a school district or any institution of higher education for the purchase or lease of lands granted to the state by the United States, the department may offer such land for sale or lease to such school district or institution of higher education in such acreage as it may determine, consideration being given upon application of a school district to school site criteria established by the state board of education. However, in the event the department thereafter proposes to offer such land for sale or lease at

public auction, such school district or institution of higher education shall have a preference right for six months from notice of such proposal to purchase or lease such land at the appraised value determined by the board.

NEW SECTION. Sec. 323. (1) State lands may be leased not to exceed ten years with the following exceptions:

(a) The lands may be leased for agricultural purposes not to exceed twenty-five years, except:

(i) Leases that authorize tree fruit or grape production may be for up to fifty-five years;

(ii) Share crop leases may not exceed ten years;

(b) The lands may be leased for commercial, industrial, business, or recreational purposes not to exceed fifty-five years;

(c) The lands may be leased for public school, college, or university purposes not to exceed seventy-five years; and

(d) The lands may be leased for residential purposes not to exceed ninety-nine years.

(2) No lessee of state lands may remain in possession of the land after the termination or expiration of the lease without the written consent of the department.

(a) The department may authorize a lease extension for a specific period beyond the term of the lease for cropping improvements for the purpose of crop rotation. These improvements shall be deemed authorized improvements under section 367 of this act.

(b) Upon expiration of the lease term, the department may allow the lessee to continue to hold the land for a period not exceeding one year upon such rent, terms, and conditions as the department may prescribe, if the leased land is not otherwise utilized.

(c) Upon expiration of the one-year lease extension, the department may issue a temporary permit to the lessee upon terms and conditions it prescribes if the department has not yet determined the disposition of the land for other purposes.

(d) The temporary permit shall not extend beyond a five-year period.

(3) If during the term of the lease of any state lands for agricultural, grazing, commercial, residential, business, or recreational purposes, in the opinion of the department it is in the best interest of the state so to do, the department may, on the application of the lessee and in agreement with the lessee, alter and amend the terms and conditions of the lease. The sum total of the original lease term and any extension thereof shall not exceed the limits provided in this section.

Sec. 324. RCW 79.01.100 and 1967 ex.s. c 78 s 4 are each amended to read as follows:

The department (~~(of natural resources)~~) shall cause all unplatted state lands, within the limits of any incorporated city or town, or within two miles of the boundary thereof, where the valuation of such lands is found by appraisal to exceed one hundred dollars per acre, to be platted into lots and blocks, of not more than five acres in a block, before the same are offered for sale, and not more than one block shall be offered for sale in one parcel. The department (~~(of natural resources)~~) may designate or describe any such plat by name, or numeral, or as an addition to such city or town, and, upon the filing of any such plat, it

shall be sufficient to describe the lands, or any portion thereof, embraced in such plat, according to the designation prescribed by the department (~~(of natural resources)~~). Such plats shall be made in duplicate, and when properly authenticated by the department (~~(of natural resources)~~), one copy thereof shall be filed in the office of the department and one copy in the office of the county auditor in which the lands are situated, and (~~said~~) the auditor shall receive and file such plats without compensation or fees and make record thereof in the same manner as required by law for the filing and recording of other plats in (~~his~~) the auditor's office.

In selling lands subject to the provisions of Article 16, section 4, of the state Constitution, the department (~~(of natural resources)~~) will be permitted to sell the land within the required land subdivision without being required to complete the construction of streets, utilities, and such similar things as may be required by any local government entity in the instance of the platting of private or other property within their area of jurisdiction(~~(- PROVIDED, That)~~). However, no construction will be permitted on lands so sold until the purchaser or purchasers collectively comply with all of the normal requirements for platting.

Sec. 325. RCW 79.01.104 and 1959 c 257 s 7 are each amended to read as follows:

When, in the judgment of the (~~(commissioner of public lands)~~) department the best interest of the state will be thereby promoted, the (~~(commissioner)~~) department may vacate any plat or plats covering state lands, and vacate any street, alley, or other public place therein situated(~~(- PROVIDED, That)~~). The vacation of any such plat shall not affect the vested rights of any person or persons theretofore acquired therein. In the exercise of (~~(the foregoing power and)~~) this authority to vacate the (~~(commissioner)~~) department shall enter an order in the records of (~~his~~) its office and at once forward a certified copy thereof to the county auditor of the county wherein (~~said~~) the platted lands are located (~~(and said)~~). The auditor shall cause the same to be recorded in the miscellaneous records of (~~his~~) the auditor's office and noted on the plat by reference to the volume and page of the record.

Sec. 326. RCW 79.01.108 and 1959 c 257 s 8 are each amended to read as follows:

Whenever all the owners and other persons having a vested interest in the lands abutting on any street, alley, or other public place, or any portion thereof, in any plat of state lands, lying outside the limits of any incorporated city or town, (~~shall~~) petition the (~~(commissioner of public lands therefor)~~) department, the (~~(commissioner)~~) department may vacate any such tract, alley, or public place or part thereof and in such case all such streets, alleys, or other public places or portions thereof so vacated shall be platted, appraised, and sold or leased in the manner provided for the platting, appraisal, and sale or lease of similar lands(~~(- PROVIDED, That)~~). However, where the area vacated can be determined from the plat already filed it shall not be necessary to survey such area before platting the same. The owner or owners, or other persons having a vested interest in the lands abutting on any of the lots, blocks, or other parcels platted upon the lands embraced within any area vacated as (~~(hereinabove)~~) provided in this section, shall have a preference right for the period of sixty days from the date of filing with the department such plat and the appraisal of such

lots, blocks, or other parcels of land (~~in the office of the commissioner of public lands~~), to purchase the same at the appraised value thereof.

Sec. 327. RCW 79.01.112 and 1959 c 257 s 9 are each amended to read as follows:

Whenever application is made to purchase less than a section of unplatted state lands, the (~~commissioner of public lands~~) department may order the inspection of the entire section or sections of which the lands applied for form a part.

Sec. 328. RCW 79.01.116 and 2001 c 250 s 2 are each amended to read as follows:

~~((1))~~ In no case shall any lands granted to the state be offered for sale under this chapter unless the same shall have been appraised by the board (~~of natural resources~~) within ninety days prior to the date fixed for the sale.

~~((2))~~ For the sale of valuable materials from state land under this title, if the board of natural resources is required by law to appraise the sale, the board must establish a minimum appraisal value that is valid for a period of one hundred eighty days, or a longer period as may be established by resolution. The board may reestablish the minimum appraisal value at any time. For any valuable materials sales that the board is required by law to appraise, the board may by resolution transfer this authority to the commissioner of public lands.

~~(3) Where the board of natural resources has set a minimum appraisal value for a valuable materials sale, the commissioner of public lands may set the final appraisal value of valuable materials for auction, which must be equal to or greater than the board of natural resources' minimum appraisal value. The commissioner may also appraise any valuable materials sale not required by law to be approved by the board of natural resources.)~~

NEW SECTION. Sec. 329. (1) For the sale of valuable materials under this chapter, if the board is required by law to appraise the sale, the board must establish a minimum appraisal value that is valid for a period of one hundred eighty days, or a longer period as may be established by resolution. The board may reestablish the minimum appraisal value at any time. For any valuable materials sales that the board is required by law to appraise, the board may by resolution transfer this authority to the department.

(2) Where the board has set a minimum appraisal value for a valuable materials sale, the department may set the final appraisal value of valuable materials for auction, which must be equal to or greater than the board's minimum appraisal value. The department may also appraise any valuable materials sale not required by law to be approved by the board.

Sec. 330. RCW 79.01.120 and 1982 1st ex.s. c 21 s 153 are each amended to read as follows:

The (~~commissioner of public lands~~) department may cause any state lands to be surveyed for the purpose of ascertaining and determining the area subject to sale (~~or lease~~).

Sec. 331. RCW 79.01.124 and 2001 c 250 s 3 are each amended to read as follows:

(1) Valuable (~~material[s]~~) materials situated upon state lands and state forest lands may be sold separate from the land, when in the judgment of the

~~((commissioner of public lands))~~ department, it is for the best interest of the state so to sell the same.

(2) Sales of valuable materials from any university lands require:

(a) The consent of the board of regents of the University of Washington; or

(b) Legislative directive.

(3) When application is made for the purchase of any valuable materials, the ~~((commissioner of public lands))~~ department shall appraise the value of the valuable materials if the ~~((commissioner))~~ department determines it is in the best interest of the state to sell. No valuable materials shall be sold for less than the appraised value thereof.

Sec. 332. RCW 79.01.128 and 1999 c 257 s 1 are each amended to read as follows:

(1) In the management of public lands lying within the limits of any watershed over and through which is derived the water supply of any city or town, the department may alter its land management practices to provide water with qualities exceeding standards established for intrastate and interstate waters by the department of ecology (~~(= PROVIDED, That)~~). However, if such alterations of management by the department reduce revenues from, increase costs of management of, or reduce the market value of public lands the city or town requesting such alterations shall fully compensate the department.

(2) The department shall initiate a pilot project for the municipal watershed delineated by the Lake Whatcom hydrographic boundaries to determine what factors need to be considered to achieve water quality standards beyond those required under chapter 90.48 RCW and what additional management actions can be taken on state trust lands that can contribute to such higher water quality standards. The department shall establish an advisory committee consisting of a representative each of the city of Bellingham, Whatcom county, the Whatcom county water district 10, the department of ecology, the department of fish and wildlife, and the department of health, and three general citizen members to assist in this pilot project. In the event of differences of opinion among the members of the advisory committee, the committee shall attempt to resolve these differences through various means, including the retention of facilitation or mediation services.

(3) The pilot project in subsection (2) of this section shall be completed by June 30, 2000. The department shall defer all timber sales in the Lake Whatcom hydrographic boundaries until the pilot project is complete.

(4) Upon completion of the study, the department shall provide a report to the natural resources committee of the house of representatives and to the natural resources, parks, and recreation committee of the senate summarizing the results of the study.

(5) The exclusive manner, notwithstanding any provisions of the law to the contrary, for any city or town to acquire by condemnation ownership or rights in public lands for watershed purposes within the limits of any watershed over or through which is derived the water supply of any city or town shall be to petition the legislature for such authority. Nothing in ~~((this section,))~~ RCW 79.44.003 and this chapter ~~((79.68 RCW))~~ shall be construed to affect any existing rights held by third parties in the lands applied for.

NEW SECTION. Sec. 333. The board must establish procedures to protect against cedar theft and to ensure adequate notice is given for persons interested in purchasing cedar.

NEW SECTION. Sec. 334. (1) Valuable materials may be sold separately from the land as a "lump sum sale" or as a "scale sale."

(a) "Lump sum sale" means any sale offered with a single total price applying to all the material conveyed.

(b) "Scale sale" means any sale offered with per unit prices to be applied to the material conveyed.

(2) Payment for lump sum sales must be made as follows:

(a) Lump sum sales under five thousand dollars appraised value require full payment on the day of sale.

(b) Lump sum sales appraised at over five thousand dollars but under one hundred thousand dollars may require full payment on the day of sale.

(c) Lump sum sales requiring full payment on the day of sale may be paid in cash or by certified check, cashier's check, bank draft, or money order, all payable to the department.

(3) Except for sales paid in full on the day of sale or sales with adequate bid bonds, an initial deposit not to exceed twenty-five percent of the actual or projected purchase price shall be made on the day of sale.

(a) Sales with bid bonds are subject to the day of sale payment and replacement requirements prescribed by section 355 of this act.

(b) The initial deposit must be maintained until all contract obligations of the purchaser are satisfied. However, all or a portion of the initial deposit may be applied as the final payment for the valuable materials in the event the department determines that adequate security exists for the performance or fulfillment of any remaining obligations of the purchaser under the sale contract.

(4) Advance payments or other adequate security acceptable to the department is required for valuable materials sold on a scale sale basis or a lump sum sale not requiring full payment on the day of sale.

(a) The purchaser must notify the department before any operation takes place on the sale site.

(b) Upon notification as provided in (a) of this subsection, the department must require advanced payment or may allow purchasers to submit adequate security.

(c) The amount of advanced payments or security must be determined by the department and must at all times equal or exceed the value of timber cut and other valuable materials processed or removed until paid for.

(d) Security may be bank letters of credit, payment bonds, assignments of savings accounts, assignments of certificates of deposit, or other methods acceptable to the department as adequate security.

(5) All valuable material must be removed from the sale area within the period specified in the contract.

(a) The specified period may not exceed five years from date of purchase except for stone, sand, gravel, fill material, or building stone.

(b) The specified period for stone, sand, gravel, fill material, or building stone may not exceed thirty years.

(c) In all cases, any valuable material not removed from the land within the period specified in the contract reverts to the state.

(6) The department may extend a contract beyond the normal termination date specified in the sale contract as the time for removal of valuable materials when, in the department's judgment, the purchaser is acting in good faith and endeavoring to remove the materials. The extension is contingent upon payment of the fees specified below.

(a) The extended time for removal shall not exceed:

(i) Forty years from date of purchase for stone, sand, gravel, fill material, or building stone;

(ii) A total of ten years beyond the original termination date for all other valuable materials.

(b) An extension fee fixed by the department will be charged based on the estimated loss of income per acre to the state resulting from the granting of the extension plus interest on the unpaid portion of the contract. The board must periodically fix and adopt by rule the interest rate, which shall not be less than six percent per annum.

(c) The sale contract shall specify:

(i) The applicable rate of interest as fixed at the day of sale and the maximum extension payment; and

(ii) The method for calculating the unpaid portion of the contract upon which interest is paid.

(d) The minimum extension fee is fifty dollars per extension plus interest on the unpaid portion of the contract.

(e) Moneys received for any extension must be credited to the same fund in the state treasury as was credited the original purchase price of the valuable material sold.

(7) The department may, in addition to any other securities, require a performance security to guarantee compliance with all contract requirements. The security is limited to those types listed in subsection (4) of this section. The value of the performance security will, at all times, equal or exceed the value of work performed or to be performed by the purchaser.

(8) Any time that the department sells timber by contract that includes a performance bond, the department must require the purchaser to present proof of any and all property taxes paid prior to the release of the performance bond. Within thirty days of payment of taxes due by the timber purchaser, the county treasurer must provide certified evidence of property taxes paid, clearly disclosing the sale contract number.

(9) The provisions of this section apply unless otherwise provided by statute.

Sec. 335. RCW 79.01.134 and 1985 c 197 s 1 are each amended to read as follows:

(1) The department (~~(of natural resources)~~), upon application by any person, (~~(firm or corporation)~~), may enter into a contract providing for the sale and removal of rock, gravel, sand, and silt located upon state lands or state forest lands, and providing for payment to be made (~~(therefor)~~) on a royalty basis.

(2) The issuance of a contract shall be made after public auction and (~~(such contract)~~) shall not be issued for less than the appraised value of the material.

(3) Each application made pursuant to this section shall:

(a) Set forth the estimated quantity and kind of materials desired to be removed; and (~~(shall)~~)

(b) Be accompanied by a map or plat showing the area from which the applicant wishes to remove such materials.

(4) The department (~~(of natural resources)~~) may in its discretion include in any contract (~~(entered into pursuant to this section,)~~) such terms and conditions (~~(protecting)~~) required to protect the interests of the state (~~(as it may require)~~). (~~(In each such)~~)

(5) Every contract (~~(the department of natural resources)~~) shall provide for a right of forfeiture by the state, upon a failure to operate under the contract or pay royalties for periods therein stipulated (~~(, and he)~~). The right of forfeiture is exercised by entry of a declaration of forfeiture in the records of the department.

(6) The department may require a bond with a surety company authorized to transact a surety business in this state, as surety, to secure the performance of the terms and conditions of such contract including the payment of royalties. (~~(The right of forfeiture shall be exercised by entry of a declaration of forfeiture in the records of the department of natural resources.)~~)

(7) The amount of rock, gravel, sand, or silt taken under the contract shall be reported monthly by the purchaser to the department (~~(of natural resources)~~) and payment therefor made on the basis of the royalty provided in the contract.

(8) The department (~~(of natural resources)~~) may inspect and audit books, contracts, and accounts of each person removing rock, gravel, sand, or silt pursuant to any such contract and make such other investigation and secure or receive any other evidence necessary to determine whether or not the state is being paid the full amount payable to it for the removal of such materials.

Sec. 336. RCW 79.01.136 and 1979 ex.s. c 109 s 5 are each amended to read as follows:

Before any state lands are offered for sale, (~~(or lease, or are assigned,)~~) the department (~~(of natural resources)~~) may establish the fair market value of those authorized improvements not owned by the state. (~~(In the event that agreement cannot be reached between the state and the lessee on the fair market value, such valuation shall be submitted to a review board of appraisers. The board shall be as follows: One member to be selected by the lessee and his expense shall be borne by the lessee; one member selected by the state and his expense shall be borne by the state; these members so selected shall mutually select a third member and his expenses shall be shared equally by the lessee and the state. The majority decision of this appraisal review board shall be binding on both parties. For this purpose "fair market value" is defined as: The highest price in terms of money which a property will bring in a competitive and open market under all conditions of a fair sale, the buyer and seller, each prudently knowledgeable and assuming the price is not affected by undue stimulus. All damages and wastes committed upon such lands and other obligations due from the lessee shall be deducted from the appraised value of the improvements: PROVIDED, That the department of natural resources on behalf of the respective trust may purchase at fair market value those improvements if it appears to be in the best interest of the state from the RMCA of the general fund.)~~)

NEW SECTION. Sec. 337. Before any state lands are offered for lease, or are assigned, the department may establish the fair market value of those authorized improvements not owned by the state. In the event that agreement cannot be reached between the state and the lessee on the fair market value, such

valuation shall be submitted to a review board of appraisers. The board is comprised of the following members: One member to be selected by the lessee and that person's expenses shall be borne by the lessee; one member selected by the state and that person's expenses shall be borne by the state; these members so selected shall mutually select a third member and that person's expenses shall be shared equally by the lessee and the state. The majority decision of this appraisal review board shall be binding on both parties. For this purpose, "fair market value" is defined as: The highest price in terms of money that a property will bring in a competitive and open market under all conditions of a fair sale, the buyer and seller, each prudently knowledgeable and assuming the price is not affected by undue stimulus. All damages and wastes committed upon such lands and other obligations due from the lessee shall be deducted from the appraised value of the improvements. However, the department on behalf of the respective trust may purchase at fair market value those improvements if it appears to be in the best interest of the state from the resource management cost account created in RCW 79.64.020 (as recodified by this act).

Sec. 338. RCW 79.01.148 and 1979 ex.s. c 109 s 7 are each amended to read as follows:

~~(If the)~~ A purchaser of state lands ~~((be))~~ who is not the owner of the authorized improvements thereon~~((, he))~~ shall deposit with the auctioneer making the sale, at the time of the sale, the appraised value of such improvements~~((, and))~~. The ~~((commissioner))~~ department shall pay to the owner of ~~((said))~~ the improvements the sum ~~((so))~~ deposited~~((: PROVIDED, That))~~. However, when the improvements are owned by the state in accordance with the provisions of this chapter or have been acquired by the state by escheat or operation of law, the purchaser may~~((, in case of sale,))~~ pay for such improvements in equal annual installments at the same time, and with the same rate of interest ~~((on deferred payments))~~, as the installments of the purchase price of the land are paid, and under such rules ~~((and regulations))~~ regarding use and care of ~~((said))~~ the improvements as may be fixed by the ~~((commissioner of public lands))~~ department.

Sec. 339. RCW 79.01.160 and 2001 c 250 s 5 are each amended to read as follows:

All sales of valuable materials upon state lands and state forest lands shall be made subject to the right, power, and authority of the ~~((commissioner of public lands))~~ department to prescribe rules or procedures governing the manner of the sale and removal of the valuable materials. Such procedures shall be binding when contained within a purchaser's contract for valuable materials and apply to the purchaser's successors in interest and shall be enforced by the ~~((commissioner of public lands))~~ department.

Sec. 340. RCW 79.01.164 and 1959 c 257 s 16 are each amended to read as follows:

When the merchantable timber has been sold and actually removed from any state lands, the ~~((commissioner of public lands))~~ department may classify the land, and may reserve from any future sale such portions thereof as may be found suitable for reforestation, and in such case, ~~((the commissioner))~~ shall enter such reservation in ~~((the))~~ its records ~~((in his office, and))~~. All ~~((such))~~ lands ~~((so))~~ reserved shall not ~~((thereafter))~~ be subject to sale or lease. The

commissioner (~~((of public lands))~~) shall certify all such reservations for reforestation so made, to the board (~~((of natural resources, and))~~). It shall be the duty of the department (~~((of natural resources,))~~) to protect such lands, and the remaining timber thereon, from fire and to reforest the same.

Sec. 341. RCW 79.01.168 and 1961 c 73 s 2 are each amended to read as follows:

The (~~((commissioner of public lands))~~) department may cause valuable materials on state lands and state forest lands to be inspected and appraised and offered for sale when authorized by the board (~~((of natural resources))~~) without an application having been filed, or deposit made, for the purchase of the same.

Sec. 342. RCW 79.01.172 and 1927 c 255 s 43 are each amended to read as follows:

Whenever the state of Washington shall become the owner of any growing crop, or crop grown upon, any state lands, by reason of the forfeiture, cancellation, or termination of any contract or lease of state lands, or from any other cause, the (~~((commissioner of public lands))~~) department is authorized to arrange for the harvesting, sale, or other disposition of such crop in such manner as (~~((he))~~) the department deems for the best interest of the state, and shall pay the proceeds of any such sale into the state treasury to be credited to the same fund as the rental of the lands upon which the crop was grown would be credited.

Sec. 343. RCW 79.01.176 and 1982 1st ex.s. c 21 s 155 are each amended to read as follows:

(1) Any county, city, or town (~~((desiring))~~) may file with the department an application to purchase any stone, rock, gravel, or sand upon any state lands or state forest lands to be used in the construction, maintenance, or repair of any public street, road, or highway within such county, city, or town(~~((, may file with the commissioner of public lands an application for the purchase thereof, which))~~).

(2) Applications shall set forth the quantity and kind of material desired to be purchased, the location thereof, and the name, or other designation, and location of the street, road, or highway upon which the material is to be used.

(3) The (~~((commissioner of public lands upon the receipt of such an application))~~) department is authorized to appraise and sell (~~((said))~~) the material in such a manner and upon such terms as (~~((he))~~) the department deems advisable (~~((and for the best interest of the state))~~) for not less than the fair market value thereof (~~((to be appraised by the commissioner of public lands))~~).

(4) The proceeds of any such sale shall be paid into the state treasury and credited to the fund to which the proceeds of the sale of the land upon which the material is situated would belong.

Sec. 344. RCW 79.01.184 and 2001 c 250 s 6 are each amended to read as follows:

When the department (~~((of natural resources shall have decided))~~) decides to sell any state lands (~~((or valuable materials thereon))~~), or with the consent of the board of regents of the University of Washington, or by legislative directive, (~~((shall have decided))~~) decides to sell any lot, block, tract, or tracts of university lands, (~~((or the valuable materials thereon,))~~) it (~~((shall be))~~) is the duty of the department to fix the date, place, and time of sale(~~((, and no sale shall be had on any day which is a legal holiday))~~).

~~((The department shall give notice of the sale by advertisement published not less than two times during a four-week period prior to the time of sale in at least one newspaper of general circulation in the county in which the whole, or any part of any lot, block, or tract of land to be sold, or the material upon which is to be sold is situated, and by posting a copy of the notice in a conspicuous place in the department's Olympia office, the region headquarters administering such sale, and in the office of the county auditor of such county. The notice shall specify the place, date, and time of sale, the appraised value thereof, and describe with particularity each parcel of land to be sold, or from which valuable materials are to be sold. In the case of valuable materials sales, the estimated volume will be identified and the terms of sale will be available in the region headquarters and the department's Olympia office.~~

~~—The advertisement is for informational purposes only, and under no circumstances does the information in the notice of sale constitute a warranty that the purchaser will receive the stated values, volumes, or acreage. All purchasers are expected to make their own measurements, evaluations, and appraisals.~~

~~A direct sale of valuable materials may be sold to the applicant for cash at full appraised value without notice or advertising. The board of natural resources shall, by resolution, establish the value amount of a direct sale not to exceed twenty thousand dollars in appraised sale value, and establish procedures to ensure that competitive market prices and accountability will be guaranteed.))~~

~~(1) No sale may be conducted on any day that is a legal holiday.~~

~~(2) Sales must be held between the hours of 10:00 a.m. and 4:00 p.m. If all sales cannot be offered within this time period, the sale must continue on the following day between the hours of 10:00 a.m. and 4:00 p.m.~~

~~(3) Sales must take place:~~

~~(a) At the department's regional office administering the respective sale; or~~

~~(b) On county property designated by the board of county commissioners or county legislative authority of the county in which the whole or majority of state lands are situated.~~

NEW SECTION. Sec. 345. The advertisement of sales is for informational purposes only, and under no circumstances does the information in the notice of sale constitute a warranty that the purchaser will receive the stated values, volumes, or acreage. All purchasers are expected to make their own measurements, evaluations, and appraisals.

Sec. 346. RCW 79.01.188 and 2001 c 250 s 7 are each amended to read as follows:

(1) The department shall give notice of the sale by advertisement published not fewer than two times during a four-week period prior to the time of sale in at least one newspaper of general circulation in the county in which the whole, or any part of any lot, block, or tract of land to be sold is situated, and by posting a copy of the notice in a conspicuous place in the department's Olympia office, the region headquarters administering such sale, and in the office of the county auditor of such county. The notice shall specify the place, date, and time of sale, the appraised value of the land, describe with particularity each parcel of land to be sold, and specify that the terms of sale will be available in the region headquarters and the department's Olympia office.

(2) The advertisement is for informational purposes only, and under no circumstances does the information in the notice of sale constitute a warranty that the purchaser will receive the stated values, volumes, or acreage. All purchasers are expected to make their own measurements, evaluations, and appraisals.

(3) The (~~commissioner of public lands~~) department shall (~~cause to be printed~~) print a list of all public lands (~~(, or valuable materials thereon,)~~) and the appraised value thereof, that are to be sold. This list should be published in a pamphlet form to be issued at least four weeks prior to the date of any sale of the lands (~~(or valuable materials thereon)~~). The list should be organized by county and by alphabetical order, and provide sale information to prospective buyers. The (~~commissioner of public lands~~) department shall retain for free distribution in (~~(his or her)~~) the Olympia office and the region offices sufficient copies of the pamphlet, to be kept in a conspicuous place, and, when requested so to do, shall mail copies of the pamphlet as issued to any requesting applicant. The (~~commissioner of public lands~~) department may seek additional means of publishing the information in the pamphlet, such as on the internet, to increase the number of prospective buyers.

NEW SECTION. Sec. 347. (1) Sales, other than direct sales, appraised at an amount not exceeding one hundred thousand dollars, when authorized by the board for sale, shall be advertised by publishing not less than ten days prior to sale a notice of such sale in a newspaper of general circulation located nearest to the property from which the valuable material is to be sold.

(2) All other proposed sales of valuable materials must be advertised through individual notice of sale and publication of a statewide list of sales.

(a) The notice of sale:

(i) Must specify the place, date, and time of sale, the appraised value thereof, and describe with particularity each parcel of land from which valuable materials are to be sold. The estimated volume will be identified and the terms of sale will be available in the region headquarters and the department's Olympia office;

(ii) May prescribe that the bid deposit required in section 355 of this act be considered an opening bid;

(iii) Must be published not less than two times during a four-week period prior to the time of sale in at least one newspaper of general circulation where the material is located; and

(iv) Must be posted in a conspicuous place in the department's Olympia office and in the region headquarters administering the sale, and in the office of the county auditor of the county where the material is located.

(b) The department shall print a list of all valuable material on public lands that are to be sold. The list should be organized by county and by alphabetical order.

(i) The list should be published in a pamphlet form, issued at least four weeks prior to the date of any sale and provide sale information to prospective buyers.

(ii) The department must retain for free distribution in the Olympia office and the region offices sufficient copies of the pamphlet, to be kept in a conspicuous place, and, when requested to do so, must mail copies of the pamphlet as issued to any requesting applicant.

(iii) The department may seek additional means of publishing the information in the pamphlet, such as on the internet, to increase the number of prospective buyers.

(3) The department is authorized to expend any sum in additional advertising of the sales as it deems necessary.

Sec. 348. RCW 79.01.192 and 1927 c 255 s 48 are each amended to read as follows:

The ~~((commissioner of public lands))~~ department is authorized to expend any sum in additional advertising of such sale as ~~((he shall))~~ it determines to be for the best interest of the state.

Sec. 349. RCW 79.01.196 and 1965 ex.s. c 23 s 3 are each amended to read as follows:

~~((When sales are made by the county auditor, they shall take place at such place on county property as the board of county commissioners may direct in the county in which the whole, or the greater part, of each lot, block or tract of land, or the material thereon, to be sold, is situated. All other sales shall be held at the departmental district offices having jurisdiction over the respective sales. Sales shall be conducted between the hours of ten o'clock in the forenoon and four o'clock in the afternoon.))~~

Any sale which has been offered, and for which there are no bids received shall not be reoffered until it has been readvertised as specified in RCW 79.01.188 and 79.01.192 (as recodified by this act). If all sales cannot be offered within the specified time on the advertised date, the sale shall continue on the following day between ~~((the hours of ten o'clock in the forenoon and four o'clock in the afternoon))~~ 10:00 a.m. and 4:00 p.m.

NEW SECTION. Sec. 350. It is the duty of the department to fix the date, time, and place of sale.

(1) All valuable materials shall have been appraised prior to the date fixed for sale as prescribed in section 329 of this act.

(2) No sale may be conducted on any day that is a legal holiday.

(3) Sales must be held between the hours of 10:00 a.m. and 4:00 p.m. If all sales cannot be offered within this time period, the sale must continue on the following day between the hours of 10:00 a.m. and 4:00 p.m.

(4) Sales must take place:

(a) At the department's regional office having jurisdiction over the respective sale; or

(b) On county property designated by the board of county commissioners or county legislative authority of the county in which the whole or majority of valuable materials are situated.

NEW SECTION. Sec. 351. A sale of valuable materials that has been offered, and for which there are no bids received, shall not be reoffered until it has been readvertised as prescribed in RCW 79.01.188 (as recodified by this act).

Sec. 352. RCW 79.01.200 and 1989 c 148 s 3 are each amended to read as follows:

Except as provided in section 399 of this act, all sales of land under this chapter shall be at public auction, ((and all sales of valuable materials shall be at public auction or by sealed bid)) to the highest bidder, on the terms prescribed by

law and as specified in the notice provided under RCW 79.01.184 (as recodified by this act), and no land (~~or materials~~) shall be sold for less than its appraised value (~~PROVIDED, That on public lands granted to the state for educational purposes sealed bids may be accepted for sales of timber or stone only: PROVIDED FURTHER, That when valuable material has been appraised at an amount not exceeding one hundred thousand dollars, the department of natural resources, when authorized by the board of natural resources, may arrange for the sale at public auction of said valuable material and for its removal under such terms and conditions as the department may prescribe, after the department shall have caused to be published not less than ten days prior to sale a notice of such sale in a newspaper of general circulation located nearest to property to be sold. This section does not apply to direct sales authorized in RCW 79.01.184~~)).

NEW SECTION. Sec. 353. (1) All sales of valuable materials exceeding twenty thousand dollars in appraised value must be at public auction or by sealed bid to the highest bidder, provided that on public lands granted to the state for educational purposes sealed bids may be accepted for sales of timber or stone only.

(2) A direct sale of valuable materials may be sold to the applicant for cash at full appraised value without notice or advertising. The board must, by resolution, establish the value amount of a direct sale not to exceed twenty thousand dollars in appraised sale value, and establish procedures to ensure that competitive market prices and accountability are guaranteed.

Sec. 354. RCW 79.01.204 and 2001 c 250 s 8 are each amended to read as follows:

Sales by public auction under this chapter shall be conducted under the direction of the department (~~of natural resources~~) or its authorized representative. The department or department's representative are hereinafter referred to as auctioneers. On or before the time specified in the notice of sale each bidder shall deposit with the auctioneer, in cash or by certified check, cashier's check, money order payable to the order of the department of natural resources, or by bid guarantee in the form of bid bond acceptable to the department, an amount equal to the deposit specified in the notice of sale. The deposit shall include a specified amount of the appraised price for the land (~~or valuable materials~~) offered for sale, together with any fee required by law for the issuance of contracts, deeds, or bills of sale. (~~Said~~) The deposit may, when prescribed in notice of sale, be considered an opening bid of an amount not less than the minimum appraised price established in the notice of sale. The successful bidder's deposit will be retained by the auctioneer and the difference, if any, between the deposit and the total amount due shall on the day of the sale be paid in cash, certified check, cashier's check, bank draft, or money order, made payable to the department. If a bid bond is used, the share of the total deposit due guaranteed by the bid bond shall, within ten days of the day of sale, be paid in cash, certified check, cashier's check, money order, or other acceptable payment method payable to the department. Other deposits, if any, shall be returned to the respective bidders at the conclusion of each sale. The auctioneer shall deliver to the purchaser a memorandum of his or her purchase containing a description of the land or materials purchased, the price bid, and the terms of the sale. The auctioneer shall at once send to the department the cash,

certified check, cashier's check, bank draft, money order, bid guarantee, or other acceptable payment method received from the purchaser, and a copy of the memorandum delivered to the purchaser, together with such additional report of ~~((his or her))~~ the proceedings with reference to such sales as may be required by the department.

NEW SECTION. Sec. 355. (1) Sales of valuable materials must be conducted under the direction of the department or its authorized representative.

(a) Sales of valuable materials, unless otherwise provided in this chapter, shall be at public auction or by sealed bid to the highest bidder, except that, on public lands granted to the state for educational purposes, sealed bids may be accepted for sales of timber or stone only.

(b) The person conducting the sale is called the auctioneer.

(2) On or before the time specified in the notice of sale each bidder shall deposit with the auctioneer a bid deposit equal to the amount specified in the notice of sale plus any fees required by law for the issuance of contracts or bill of sale.

(a) The bid deposit must meet the requirements of section 334(3) of this act.

(b) The deposit may be in cash, or by certified check, cashier's check, or money order, all payable to the department or by bid guarantee in the form of a bid bond acceptable to the department.

(3) The bid deposit, if prescribed in the notice of sale as authorized in section 334 of this act, may be considered an opening bid of an amount not less than the minimum appraised price established in the notice of sale.

(4) The successful bidder's deposit will be retained by the auctioneer.

(a) Any difference between the bid deposit and the total amount due including any fees required by law shall be paid on the day of sale. Payments may be by cash, certified check, cashier's check, bank draft, or money order payable to the department.

(b) Any amount of the deposit guaranteed by a bid bond must be paid to the department within ten days of the sale day in cash, certified check, cashier's check, money order, or other acceptable payment method.

(c) Other deposits must be returned to the respective bidders at the conclusion of each sale.

(5) The auctioneer must deliver to the purchaser a memorandum of his or her purchase containing a description of the materials purchased, the price bid, and the terms of the sale.

(6) The auctioneer must at once send to the department all payments or bid guarantees received from the purchaser and a copy of the memorandum delivered to the purchaser, together with additional reports of the proceedings as required by the department.

Sec. 356. RCW 79.01.208 and 1927 c 255 s 52 are each amended to read as follows:

If any land ~~((so))~~ offered for sale ~~((be))~~ is not sold ~~((the same))~~, it may again be advertised for sale, as provided in this chapter, whenever in the opinion of the commissioner ~~((of public lands))~~ it shall be expedient ~~((so))~~ to do ~~((, and such land shall be again advertised and offered for sale as herein provided,))~~ so. Whenever any person ~~((shall apply))~~ applies to the ~~((commissioner))~~ department in writing to have such land offered for sale ~~((and shall))~~, agrees to pay~~((;))~~ at

least the appraised value thereof and ~~((shall))~~ deposits with the ~~((commissioner))~~ department at the time of making such application a sufficient sum of money to pay the cost of advertising such sale, the land shall again be advertised and offered for sale as provided in this chapter.

Sec. 357. RCW 79.01.212 and 1982 1st ex.s. c 21 s 158 are each amended to read as follows:

~~((If no affidavit showing that the interest of the state in such sale was injuriously affected by fraud or collusion, shall be filed with))~~ The department ~~((of natural resources within ten days from the receipt of the report of the auctioneer conducting the sale of any state lands, or valuable material thereon, and it shall appear from such report that the sale was fairly conducted, that the purchaser was the highest bidder at such sale, and that his bid was not less than the appraised value of the property sold, and if the department shall be satisfied that the lands, or material, sold would not, upon being readvertised and offered for sale, sell for at least ten percent more than the price at which it shall have been sold, and that the payment, required by law to be made at the time of making the sale, has been made, and that the best interests of the state may be subserved thereby, the department shall enter upon its records a confirmation of sale and thereupon issue to the purchaser a contract of sale, deed or bill of sale, as the case may be, as in this chapter provided))~~ shall enter upon its records a confirmation of sale and issue to the purchaser a contract of sale if the following conditions have been met:

(1) No fewer than ten days have passed since the auctioneer's report has been filed;

(2) No affidavit is filed with the department showing that the interests of the state in the sale was injuriously affected by fraud or collusion;

(3) It appears from the auctioneer's report that:

(a) The sale was fairly conducted; and

(b) The purchaser was the highest bidder and the bid was not less than the appraised value of the land sold;

(4) The department is satisfied that the land sold would not, upon being readvertised and offered for sale, sell for at least ten percent more than the price bid by the purchaser;

(5) The payment required by law to be made at the time of making the sale has been made;

(6) The department determines the best interests of the state will be served by confirming the sale.

NEW SECTION. Sec. 358. The department shall enter upon its records a confirmation of sale and issue to the purchaser a bill of sale for valuable materials if the following conditions have been met:

(1) No fewer than ten days have passed since the auctioneer's report has been filed;

(2) No affidavit is filed with the department showing that the interests of the state in the sale were injuriously affected by fraud or collusion;

(3) It appears from the auctioneer's report that:

(a) The sale was fairly conducted; and

(b) The purchaser was the highest bidder and the bid was not less than the appraised value of the material sold;

(4) The department is satisfied that the valuable material sold would not, upon being readvertised and offered for sale, sell for at least ten percent more than the price submitted by the apparent high bidder;

(5) The payment required by law to be made at the time of making the sale has been made; and

(6) The department determines the best interests of the state will be served by confirming the sale.

Sec. 359. RCW 79.01.216 and 1984 c 222 s 11 are each amended to read as follows:

All state lands shall be sold on terms and conditions established by the board (~~of natural resources~~) in light of market conditions. Sales by real estate contract or for cash may be authorized. All deferred payments shall draw interest at such rate as may be fixed, from time to time, by rule adopted by the board (~~of natural resources~~), and the rate of interest, as so fixed at the date of each sale, shall be stated in all advertising for and notice of sale and in the contract of sale. All remittances for payment of either principal or interest shall be forwarded to the department (~~of natural resources~~).

Sec. 360. RCW 79.01.220 and 1982 1st ex.s. c 21 s 160 are each amended to read as follows:

When the entire purchase price of any state lands shall have been fully paid, the commissioner (~~of public lands~~) shall certify such fact to the governor, and shall cause a quitclaim deed signed by the governor and attested by the secretary of state, with the seal of the state attached thereto, to be issued to the purchaser and to be recorded in the department's Olympia office (~~of the commissioner of public lands, and~~). No fee (~~shall be~~) is required for any deed of land issued by the governor other than the fee provided for in this (~~chapter~~) title.

Sec. 361. RCW 79.01.228 and 1985 c 237 s 18 are each amended to read as follows:

The purchaser of state lands under the provisions of this chapter, except in cases where the full purchase price is paid at the time of the purchase, shall enter into and sign a contract with the state, to be signed by the commissioner (~~of public lands~~) on behalf of the state, with the seal of (~~his~~) the commissioner's office attached, and in a form to be prescribed by the attorney general, in which (~~he~~) the purchaser shall covenant (~~that he will~~) to make the payments of principal and interest, computed from the date the contract is issued, when due, and that (~~he~~) the purchaser will pay all taxes and assessments that may be levied or assessed on such land, and that on failure to make the payments as prescribed in this chapter when due all rights of the purchaser under said contract may, at the election of the commissioner (~~of public lands~~), acting for the state, be forfeited, and that when forfeited the state shall be released from all obligation to convey the land. The purchaser's rights under the real estate contract shall not be forfeited except as provided in chapter 61.30 RCW.

The contract provided for in this section shall be executed in duplicate, and one copy shall be retained by the purchaser and the other shall be filed in the department's Olympia office (~~of the commissioner of public lands~~).

The commissioner (~~of public lands~~) may, as (~~he deems~~) deemed advisable, extend the time for payment of principal and interest on contracts heretofore issued, and contracts to be issued under this chapter.

The ~~((commissioner of public lands))~~ department shall notify the purchaser of any state lands in each instance when payment on ~~((his))~~ the purchaser's contract is overdue, and that ~~((he))~~ the purchaser is liable to forfeiture if payment is not made when due.

Sec. 362. RCW 79.01.232 and 2001 c 250 s 9 are each amended to read as follows:

When valuable materials are sold ~~((separate))~~ separately from the land and the purchase price is paid in full, the ~~((commissioner of public lands))~~ department shall ~~((cause))~~ prepare a bill of sale ~~((signed by the commissioner and attested by the seal of his or her office, setting forth the time within which such material shall be removed, to be issued to the purchaser and to be recorded in the office of the commissioner of public lands, upon the payment of the fee provided for in this chapter)).~~ The bill of sale shall:

(1) State the time period for removing the material;

(2) Be signed by the commissioner and attested by the seal of the commissioner's office upon full payment of the purchase price and fees;

(3) Be issued to the purchaser upon payment of the fee for the bill of sale;
and

(4) Be recorded in the department.

Sec. 363. RCW 79.01.236 and 1982 1st ex.s. c 21 s 163 are each amended to read as follows:

Whenever the holder of a contract of purchase of any state lands, or the holder of any lease of any such lands, except for mining of valuable minerals or coal, or extraction of petroleum or gas, shall surrender the same to the ~~((commissioner))~~ department with the request to have it divided into two or more contracts, or leases, the ~~((commissioner))~~ department may divide the same and issue new contracts, or leases, but no new contract, or lease, shall issue while there is due and unpaid any interest, rental, or taxes or assessments on the land held under such contract or lease, nor in any case where the ~~((commissioner))~~ department is of the opinion that the state's security would be impaired or endangered by the proposed division. For all such new contracts, or leases, a fee as ~~((determined by the board of natural resources for each new contract or lease issued))~~ provided under this chapter, shall be paid by the applicant ~~((and such fee shall be paid into the state treasury to the resource management cost account fund established in the general fund pursuant to RCW 79.64.010)).~~

Sec. 364. RCW 79.01.238 and 2001 c 250 s 18 are each amended to read as follows:

(1) In the event that the department ~~((of natural resources))~~ determines that regulatory requirements or some other circumstance beyond the control of both the department and the purchaser has made a valuable materials contract wholly or partially impracticable to perform, the department may cancel any portion of the contract which could not be performed. In the event of such a cancellation, the purchaser shall not be liable for the purchase price of any portions of the contract so canceled. Market price fluctuations shall not constitute an impracticable situation for valuable materials contracts.

(2) Alternatively, and notwithstanding any other provision in this title, the department ~~((of natural resources))~~ may substitute valuable materials from

another site in exchange for any valuable materials which the department determines have become impracticable to remove under the original contract. Any substituted valuable materials must belong to the identical trust involved in the original contract, and the substitute materials shall be determined by the department (~~(of natural resources)~~) to have an appraised value that is not greater than the valuable materials remaining under the original contract. The substitute valuable materials and site shall remain subject to all applicable permitting requirements and the state environmental policy act, chapter 43.21C RCW, for the activities proposed at that site. In any such substitution, the value of the materials substituted shall be fixed at the purchase price of the original contract regardless of subsequent market changes. Consent of the purchaser shall be required for any substitution under this section.

Sec. 365. RCW 79.01.240 and 2001 c 250 s 11 are each amended to read as follows:

(1) Any sale, transfer, or lease of state lands in which the purchaser, transfer recipient, or lessee obtains the sale or lease by fraud or misrepresentation is void, and the contract of purchase or lease shall be of no effect. In the event of fraud, the contract, transferred property, or lease must be surrendered to the department (~~(of natural resources)~~), but the purchaser, transfer recipient, or lessee may not be refunded any money paid on account of the surrendered contract, transfer, or lease. In the event that a mistake is discovered in the sale or lease of state lands, or in the sale of valuable materials on state lands, the department may take action to correct the mistake in accordance with RCW 79.01.740 (as recodified by this act) if maintaining the corrected contract, transfer, or lease is in the best interests of the affected trust or trusts.

Sec. 366. RCW 79.01.242 and 1984 c 222 s 12 are each amended to read as follows:

(1) Subject to other provisions of this chapter and subject to rules adopted by the board (~~(of natural resources)~~), the department may lease state lands for purposes it deems advisable, including, but not limited to, commercial, industrial, residential, agricultural, and recreational purposes in order to obtain a fair market rental return to the state or the appropriate constitutional or statutory trust. (~~Every lease issued by the department, shall contain: (a) The specific use or uses to which the land is to be employed; (b) the improvements required: PROVIDED, That a minimum reasonable time is allowed for the completion of the improvements; (c) the rent is payable in advance in quarterly, semiannual, or annual payments, as determined by the department or as agreed upon by the lessee and the department of natural resources; (d) other terms and conditions as the department deems advisable, subject to review by the board of natural resources, to more nearly effectuate the purposes of the state Constitution and of this chapter.~~)

(2) (~~The department may authorize the use of state land by lease at state auction for initial leases or by negotiation for existing leases. Notice of intent to lease by negotiation shall be published in at least two newspapers of general circulation in the area in which the land which is to be the subject of negotiation is located within the ninety days immediately preceding commencement of negotiations.~~)

~~(3) Leases which authorize commercial, industrial, or residential uses on state lands may be entered into by negotiation. Negotiations shall be subject to rules of the board of natural resources. At the option of the department, these leases may be placed for bid at public auction.~~

~~(4) Any person, firm or corporation desiring to lease any state lands for any purpose not prohibited by law, may make application to the department, describing the lands sought to be leased on forms to be provided by the department.~~

~~(5)) Notwithstanding any provision in this chapter to the contrary, in leases for residential purposes, the board ((of natural resources)) may waive or modify any conditions of the lease if the waiver or modification is necessary to enable any federal agency or lending institution authorized to do business in this state or elsewhere in the United States to participate in any loan secured by a security interest in a leasehold interest.~~

~~((6) Upon expiration of the lease term, if the leased land is not otherwise utilized, the department may allow the lessee to continue to hold the land for a period not exceeding one year upon such rent, terms, and conditions as the department may prescribe. Upon the expiration of the one year extension, if the department has not yet determined the disposition of the land for other purposes, the department may issue a temporary permit to the lessee upon terms and conditions it prescribes. The temporary permit may not extend beyond a five year period.))~~

(3) Any land granted to the state by the United States may be leased for any lawful purpose in such minimum acreage as may be fixed by the department.

(4) The department shall exercise general supervision and control over the lease of state lands for any lawful purpose.

(5) State lands leased or for which permits are issued or contracts are entered into for the prospecting and extraction of valuable materials, coal, oil, gas, or other hydrocarbons are subject to the provisions of chapter 79.14 RCW.

NEW SECTION. Sec. 367. Every lease issued by the department must contain:

- (1) The specific use or uses to which the land is to be employed;
- (2) The improvements required, if any;

(3) Provisions providing that the rent is payable in advance in quarterly, semiannual, or annual payments as determined by the department, or as agreed upon by the lessee and the department;

(4) Other terms and conditions as the department deems advisable, subject to review by the board, to achieve the purposes of the state Constitution and this chapter.

NEW SECTION. Sec. 368. (1) The department may authorize the use of state land by lease at state auction for initial leases or by negotiation for existing leases.

(2) Leases that authorize commercial, industrial, or residential uses may be entered into by public auction or negotiations at the option of the department. Negotiations are subject to rules approved by the board.

NEW SECTION. Sec. 369. (1) The department must give thirty days notice of leasing by public auction. The notice must:

(a) Specify the place and time of auction, bid deposit if any, the appraised value, describe each parcel to be leased, and the terms and conditions of the lease;

(b) Be posted in some conspicuous place in the county auditor's office and the department's regional headquarters administering the lease; and

(c) Be published in at least two newspapers of general circulation in the area where the state land subject to public auction leasing is located.

(2) Notice of intent to lease by negotiation must be published in at least two newspapers of general circulation in the area where the state land subject to lease negotiation is located. The notice must be published within the ninety days preceding commencement of negotiations.

(3) The department is authorized to conduct any additional advertising that it determines to be in the best interest of the state.

NEW SECTION. Sec. 370. Any person desiring to lease any state lands for any purpose not prohibited by law may make application to the department on forms provided by the department and accompanied by the fee provided under section 313 of this act.

Sec. 371. RCW 79.01.244 and 1979 ex.s. c 109 s 9 are each amended to read as follows:

All state lands hereafter leased for grazing or agricultural purposes shall be open and available to the public for purposes of hunting and fishing unless closed to public entry because of fire hazard or unless the department (~~(of natural resources)~~) gives prior written approval and the area is lawfully posted by lessee to prohibit hunting and fishing thereon in order to prevent damage to crops or other land cover, to improvements on the land, to livestock, to the lessee, or to the general public, or closure is necessary to avoid undue interference with carrying forward a departmental or agency program. In the event any such lands are so posted it shall be unlawful for any person to hunt or fish on any such posted lands.

The department (~~(of natural resources)~~) shall insert the provisions of this section in all new grazing and agricultural leases (~~(hereafter issued)~~).

Sec. 372. RCW 79.01.248 and 1979 ex.s. c 109 s 11 are each amended to read as follows:

(1) When the department (~~(of natural resources shall have decided)~~) decides to lease any state lands at public auction it (~~(shall be)~~) is the duty of the department to fix the date, place, and time when such lands shall be offered for lease.

(2) The auction must be conducted between the hours of 10:00 a.m. and 4:00 p.m.

(3) The auction must take place:

(a) At the department's regional office administering the lease; or

(b) When leases are auctioned by the county auditor, in the county where the state land to be leased is situated at such place as specified in the notice.

NEW SECTION. Sec. 373. (1) All leasing by public auction shall be by oral or by sealed bid. Leases will be awarded to the highest bidder on the terms prescribed by law and as specified in the notice of leasing described in section 369 of this act. No lease may be awarded for less than the appraised value.

(2) The public auction must be conducted under the direction of the department or by the auditor for the county in which the land to be leased is located. The person conducting the auction is called the auctioneer.

(3) The person to whom a lease of state lands is awarded shall pay the rental in accordance with that person's bid to the auctioneer in cash or by certified check or accepted draft on any bank in this state.

(4) The auctioneer shall send to the department such cash, certified check, draft, or money order received from the successful bidder, together with any additional report of the auction proceeding as may be required by the department.

(5) The department may reject any and all bids when the interests of the state justify it. If the department rejects a bid, it must refund any rental and bid deposit to the bidder upon return of the receipts issued.

(6) If the department approves any leasing made by the auctioneer, it must proceed to issue a lease to the successful bidder upon a form approved by the attorney general.

(a) All leases must be in duplicate and both copies signed by the lessee and the department.

(b) One signed copy must be forwarded to the lessee and one signed copy must be kept in the office of the department.

Sec. 374. RCW 79.01.268 and 1979 ex.s. c 109 s 16 are each amended to read as follows:

The ~~((commissioner of public lands))~~ department shall keep a full and complete record of all leases issued under the provisions of the preceding sections and the payments made thereon. ~~((If such rental be not paid on or before the date the same becomes due, according to the terms of the lease, the commissioner of public lands shall declare a forfeiture, cancel the lease and eject the lessee from the land: PROVIDED, That the commissioner of public lands may extend the time for payment of annual rental when, in his judgment, the interests of the state will not be prejudiced thereby.))~~

NEW SECTION. Sec. 375. If any rental is not paid on or before its due date according to the terms of the lease, the department must declare a forfeiture, cancel the lease, and eject the lessee from the land. The department may extend the time for payment of annual rental when in its judgment the interests of the state will not be prejudiced by the extension.

Sec. 376. RCW 79.01.284 and 1959 c 257 s 32 are each amended to read as follows:

At any time during the existence of any lease of state lands, except lands leased for the purpose of mining of valuable minerals, or coal, or extraction of petroleum or gas, the lessee with the consent of the ~~((commissioner of public lands))~~ department, first obtained, by written application, showing the cost and benefits to be derived thereby, may purchase or acquire a water right appurtenant to and in order to irrigate the land leased ~~((by him, and))~~. If such water right shall become a valuable and permanent improvement to the lands, then, in case of the sale or lease of such lands to other parties, the lessee acquiring such water right shall be entitled to receive the value thereof as in case of other improvements which ~~((he has))~~ have been placed upon the land by the lessee.

Sec. 377. RCW 79.01.292 and 1982 1st ex.s. c 21 s 165 are each amended to read as follows:

All contracts of purchase, or leases, of state lands issued by the department ~~((of natural resources))~~ shall be assignable in writing by the contract holder or lessee and the assignee shall be subject to and governed by the provisions of law applicable to the ~~((purchaser, or lessee, of whom he is the assignee,))~~ assignor and shall have the same rights in all respects as the original purchaser, or lessee, of the lands, provided the assignment is approved by the department ~~((of natural resources))~~ and entered of record in its office.

Sec. 378. RCW 79.01.2955 and 1996 c 163 s 1 are each amended to read as follows:

(1) It is the purpose of chapter 163, Laws of 1996 that all state agricultural lands, grazing lands, and grazeable woodlands shall be managed in keeping with the statutory and constitutional mandates under which each agency operates. Chapter 163, Laws of 1996 is consistent with section 1, chapter 4, Laws of 1993 sp. sess.

(2) The ecosystem standards developed under chapter 4, Laws of 1993 sp. sess. for state-owned agricultural and grazing lands are defined as desired ecological conditions. The standards are not intended to prescribe practices. For this reason, land managers are encouraged to use an adaptive management approach in selecting and implementing practices that work towards meeting the standards based on the best available science and evaluation tools.

(3) For as long as the chapter 4, Laws of 1993 sp. sess. ecosystem standards remain in effect, they shall be applied through a collaborative process that incorporates the following principles:

(a) The land manager and lessee or permittee shall look at the land together and make every effort to reach agreement on management and resource objectives for the land under consideration;

(b) They will then discuss management options and make every effort to reach agreement on which of the available options will be used to achieve the agreed-upon objectives;

(c) No land manager or owner ever gives up his or her management prerogative;

(d) Efforts will be made to make land management plans economically feasible for landowners, managers, and lessees and to make the land management plan compatible with the lessee's entire operation;

(e) Coordinated resource management planning is encouraged where either multiple ownerships, or management practices, or both, are involved;

(f) The department of fish and wildlife shall consider multiple use, including grazing, on lands owned or managed by the department of fish and wildlife where it is compatible with the management objectives of the land; and

(g) The department ~~((of natural resources))~~ shall allow multiple use on lands owned or managed by the department ~~((of natural resources))~~ where multiple use can be demonstrated to be compatible with RCW 79.68.010, 79.68.020, and 79.68.050 (as recodified by this act).

(4) The ecosystem standards are to be achieved by applying appropriate land management practices on riparian lands and on the uplands in order to reach the desired ecological conditions.

(5) The legislature urges that state agencies that manage grazing lands make planning and implementation of chapter 163, Laws of 1996, using the coordinated resource management and planning process, a high priority, especially where either multiple ownerships, or multiple use resources objectives, or both, are involved. In all cases, the choice of using the coordinated resource management planning process will be a voluntary decision by all concerned parties including agencies, private landowners, lessees, permittees, and other interests.

Sec. 379. RCW 79.01.296 and 1959 c 257 s 34 are each amended to read as follows:

The lessee, or assignee of any lease(~~(, of state lands,)~~) leased for grazing purposes, shall not use the ((same)) land for any other purpose than that expressed in the lease(~~(:—PROVIDED, That such)).~~ However, the lessee, or ((his)) assignee, ((of state lands,)) may surrender ((his)) the lease to the ((commissioner of public lands)) department and request the ((commissioner)) department to issue an agricultural lease in lieu ((thereof, and in such case, the commissioner upon the payment of the fixed rental for agricultural purposes under the appraisal of said land shall be authorized to issue a new lease, for the unexpired portion of the term of the lease surrendered,)) of the original lease. The department is authorized to issue a new lieu lease for the unexpired portion of the term of the lease surrendered upon payment of the fixed rental based on an appraisal of the land for agricultural purposes. Under ((which)) the lieu lease the lessee shall be permitted to clear, plow, and cultivate the lands as in the case of an original lease for agricultural purposes.

Sec. 380. RCW 79.01.300 and 1927 c 255 s 75 are each amended to read as follows:

State lands held under lease as ~~((above))~~ provided in RCW 79.01.296 (as recodified by this act) shall not be offered for sale, or sold, during the life of the lease, except upon application of the lessee.

Sec. 381. RCW 79.01.301 and 1967 ex.s. c 78 s 5 are each amended to read as follows:

(1) The purpose of this section is to provide revenues to the state and its various taxing districts through the sale of public lands which are currently used primarily for grazing and similar low priority purposes, by enabling their development as irrigated agricultural lands.

(2) All applications for the purchase of lands of the foregoing character, when accompanied by a proposed plan of development of the lands for a higher priority use, shall be individually reviewed by the board ~~((of natural resources)).~~ The board shall thereupon determine whether the sale of the lands is in the public interest and upon an affirmative finding shall offer such lands for sale ~~((under the applicable provisions of this chapter:—PROVIDED, That)).~~ However, any such parcel of land shall be sold to the highest bidder but only at a bid equal to or higher than the last appraised valuation thereof as established by appraisers for the department for any such parcel of land((:—PROVIDED FURTHER, That)). Further, any lands lying within United States reclamation areas, the sale price of which is limited or otherwise regulated pursuant to federal reclamation laws or regulations thereunder, need not be offered for sale so long as such limitations or regulations are applicable thereto.

(3) The department (~~(of natural resources)~~) shall (~~(make)~~) adopt appropriate (~~(regulations)~~) rules defining properties of such irrigated agricultural potential and shall take into account the economic benefits to the locality in classifying such properties for sale.

Sec. 382. RCW 79.01.304 and 1982 1st ex.s. c 21 s 166 are each amended to read as follows:

The (~~(commissioner of public lands)~~) department shall cause full and correct abstracts of all the (~~(state)~~) public lands to be made and kept (~~(in his office)~~) in suitable and well bound books, and other suitable records. Such abstracts shall show in proper columns and pages the section or part of section, lot or block, township and range in which each tract is situated, whether timber or prairie, improved or unimproved, the appraised value per acre, the value of improvements and the value of damages, and the total value, the several values of timber, stone, gravel, or other valuable materials thereon, the date of sale, the name of purchaser, sale price per acre, the date of lease, the name of lessee, the term of the lease, the annual rental, amount of cash paid, amount unpaid and when due, amount of annual interest, and in proper columns such other facts as may be necessary to show a full and complete abstract of the conditions and circumstances of each tract or parcel of land from the time the title was acquired by the state until the issuance of a deed or other disposition of the land by the state.

Sec. 383. RCW 79.01.332 and 1927 c 255 s 83 are each amended to read as follows:

Any person, firm, or corporation(~~(s)~~) engaged in the business of logging or lumbering, quarrying, mining or removing sand, gravel, or other valuable materials from land, and desirous of obtaining a right of way for the purpose of transporting or moving timber, minerals, stone, sand, gravel, or other valuable materials from other lands, over and across any state lands, or tide or shore lands belonging to the state, or any such lands sold or leased by the state since the fifteenth day of June, 1911, shall file with the (~~(commissioner of public lands)~~) department upon a form to be furnished for that purpose, a written application for such right of way, accompanied by a plat showing the location of the right of way applied for with references to the boundaries of the government section in which the lands over and across which such right of way is desired are located. Upon the filing of such application and plat, the (~~(commissioner of public lands)~~) department shall cause the lands embraced within the right of way applied for, to be inspected, and all timber thereon, and all damages to the lands affected which may be caused by the use of such right of way, to be appraised, and shall notify the applicant of the appraised value of such timber and such appraisal of damages. Upon the payment to the (~~(commissioner of public lands)~~) department of the amount of the appraised value of timber and damages, the (~~(commissioner)~~) department shall issue in duplicate a right of way certificate setting forth the terms and conditions upon which such right of way is granted, as provided in the preceding sections, and providing that whenever such right of way shall cease to be used for the purpose for which it was granted, or shall not be used in accordance with such terms and conditions, it shall be deemed forfeited. One copy of such certificate shall be filed in the office of the

~~((commissioner of public lands))~~ department and one copy delivered to the applicant.

Sec. 384. RCW 79.01.336 and 1927 c 255 s 84 are each amended to read as follows:

Any such right of way heretofore granted which has never been used, or has ceased to be used for the purpose for which it was granted, for a period of two years, shall be deemed forfeited. The forfeiture of any such right of way heretofore granted, or granted under the provisions of the preceding sections, shall be rendered effective by the mailing of a notice of such forfeiture to the grantee thereof at his or her last known post office address and by stamping a copy of such certificate, or other record of the grant, in the office of the ~~((commissioner of public lands))~~ department with the word "canceled", and the date of such cancellation.

Sec. 385. RCW 79.01.340 and 2001 c 250 s 12 are each amended to read as follows:

Any county or city or the United States of America or state agency desiring to locate, establish, and construct a road or street over and across any state lands of the state of Washington shall by resolution of the board of county commissioners of such county, or city council or other governing body of such city, or proper agency of the United States of America, or state agency, cause to be filed in the office of the department ~~((of natural resources))~~ a petition for a right of way for such road or street, setting forth the reasons for the establishment thereof, accompanied by a duly attested copy of a plat made by the county or city engineer or proper agency of the United States of America, or state agency, showing the location of the proposed road or street with reference to the legal subdivisions, or lots and blocks of the official plat, or the lands, over and across which such right of way is desired, the amount of land to be taken and the amount of land remaining in each portion of each legal subdivision or lot or block bisected by such proposed road or street.

Upon the filing of such petition and plat the department ~~((of natural resources))~~, if deemed for the best interest of the state to grant the petition, shall cause the land proposed to be taken to be inspected and shall appraise the value of the land and valuable materials thereon and notify the petitioner of such appraised value.

If there are no valuable materials on the proposed right of way, or upon the payment of the appraised value of the land and valuable materials thereon, to the department ~~((of natural resources))~~ in cash, or by certified check drawn upon any bank in this state, or money order, except for all rights of way granted to the department ~~((of natural resources))~~ on which the valuable materials, if any, shall be sold at public auction or by sealed bid, the department may approve the plat filed with the petition and file and enter the same in the records of ~~((his or her))~~ its office, and such approval and record shall constitute a grant of such right of way from the state.

Sec. 386. RCW 79.01.348 and 1927 c 255 s 87 are each amended to read as follows:

In order to obtain the benefits of ~~((the preceding section))~~ RCW 79.01.344 (as recodified by this act), any railroad company hereafter constructing, or proposing to construct, a railroad, shall file with the ~~((commissioner of public~~

lands)) department a copy of its articles of incorporation, due proof of organization thereunder, a map or maps, accompanied by the field notes of the survey, showing the location of the line of said railroad, the width of the right of way and extra widths, if any, and shall pay to the ~~((commissioner of public lands))~~ department as hereinafter provided the amount of the appraised value of the lands included within ~~((said))~~ the right of way, and extra widths if any are required, and the damages to any lands affected by ~~((such))~~ the right of way or extra widths.

Sec. 387. RCW 79.01.352 and 1927 c 255 s 88 are each amended to read as follows:

All state lands over which a right of way of any railroad to be hereafter constructed, shall be located, shall be appraised in the same manner as in the case of applications for the purchase of state lands, fixing the appraised value per acre for each lot or block, quarter section or subdivision thereof, less the improvements, if any, and the damages to any state lands affected by such right of way, shall be appraised in like manner, and the appraisement shall be recorded and the evidence or report upon which the same is based shall be preserved of record, in the office of the ~~((commissioner of public lands))~~ department, and the ~~((commissioner))~~ department shall send notice to the railroad company applying for the right of way that such appraisement has been made.

Sec. 388. RCW 79.01.356 and 1927 c 255 s 89 are each amended to read as follows:

Should any improvements, made by anyone not holding adversely to the state at the time of making such improvements or made in good faith by a lessee of the state whose lease had not been canceled or was not subject to cancellation for any cause, or made upon the land by mistake, be upon any of such lands at the time of the appraisement, the same shall be separately appraised, together with the damage and waste done to said lands, or to adjacent lands, by the use and occupancy of the same, and after deducting from the amount of the appraisement for improvements the amount of such damage and waste, the balance shall be regarded as the value of said improvements, and the railroad company, if not the owner of such improvements, shall deposit with the ~~((commissioner of public lands))~~ department the value of the same, as shown by ~~((said))~~ the appraisement, within thirty days next following the date thereof. The ~~((commissioner of public lands))~~ department shall hold such moneys for a period of three months, and unless a demand and proof of ownership of such improvements shall be made upon the ~~((commissioner))~~ department within said period of three months, the same shall be deemed forfeited to the state and deposited with the state treasurer and paid into the general fund. If two or more persons shall file claims of ownership of said improvements, within said period of three months, with the ~~((commissioner of public lands))~~ department, the ~~((commissioner))~~ department shall hold such moneys until the claimants agree or a certified copy of the judgment decreeing the ownership of said improvements shall be filed with ~~((him))~~ the department. When notice of agreement or a certified copy of a judgment has been so filed, the ~~((commissioner of public lands))~~ department shall pay over to the owner of the improvements the money so deposited.

Sec. 389. RCW 79.01.360 and 1927 c 255 s 90 are each amended to read as follows:

When the construction or proposed construction of said railroad affects the value of improvements on state lands not situated on the right of way or extra widths, the applicant for said right of way shall file with the (~~commissioner of public lands~~) department a valid release of damages duly executed by the owner or owners of such improvements, or a certified copy of a judgment of a court of competent jurisdiction, showing that compensation for the damages resulting to such owner or owners, as ascertained in accordance with existing law, has been made or paid into the registry of such court.

Sec. 390. RCW 79.01.364 and 1927 c 255 s 91 are each amended to read as follows:

Upon full payment of the appraised value of any right of way for a railroad and of damages to state lands affected, the (~~commissioner of public lands~~) department shall issue to the railroad company applying for such right of way a certificate in such form as the (~~commissioner of public lands~~) department may prescribe, in which the terms and conditions of said easement shall be set forth and the lands covered thereby described, and any future grant, or lease, by the state, of the lands crossed or affected by such right of way shall be subject to the easement described in the certificate.

Sec. 391. RCW 79.01.388 and 1961 c 73 s 7 are each amended to read as follows:

In order to obtain the benefits of the grant made in RCW 79.01.384 (as recodified by this act), the municipal or private corporation or company, association, individual, or the United States of America, constructing or proposing to construct, or which has heretofore constructed, such telephone line, ditch, flume, pipe line, or transmission line, shall file, with the (~~commissioner of public lands~~) department, a map, accompanied by the field notes of the survey and location of such telephone line, ditch, flume, pipe line, or transmission line, and shall make payment therefor as provided in RCW 79.01.392 (as recodified by this act). The land within the right of way shall be limited to an amount necessary for the construction of said telephone line, ditch, flume, pipe line, or transmission line sufficient for the purposes required, together with sufficient land on either side thereof for ingress and egress to maintain and repair the same, and the grant shall include the right to cut all standing timber, and/or reproduction within said right of way. The grant shall also include the right to cut trees marked as danger trees by the applicant outside of the right of way, which shall be dangerous to the operation and maintenance of the telephone line, ditch, flume, pipe line, or transmission line upon full payment of the appraised value thereof.

Sec. 392. RCW 79.01.392 and 2001 c 250 s 13 are each amended to read as follows:

Upon the filing of the plat and field notes, as provided in RCW 79.01.388 (as recodified by this act), the land applied for and the valuable materials on the right of way applied for, and the marked danger trees to be felled off the right of way, if any, and the improvements included in the right of way applied for, if any, shall be appraised as in the case of an application to purchase state lands. Upon full payment of the appraised value of the land applied for, or upon

payment of an annual rental when the department (~~(of natural resources)~~) deems a rental to be in the best interests of the state, and upon full payment of the appraised value of the valuable materials and improvements, if any, the (~~(commissioner of public lands)~~) department shall issue to the applicant a certificate of the grant of such right of way stating the terms and conditions thereof and shall enter the same in the abstracts and records in (~~(his or her)~~) its office, and thereafter any sale or lease of the lands affected by such right of way shall be subject to the easement of such right of way. Should the corporation, company, association, individual, state agency, political subdivision of the state, or the United States of America, securing such right of way ever abandon the use of the same for a period of sixty months or longer for the purposes for which it was granted, the right of way shall revert to the state, or the state's grantee.

Sec. 393. RCW 79.01.400 and 1945 c 147 s 5 are each amended to read as follows:

In order to obtain the benefits of the grant (~~(hereinabove)~~) provided for in RCW 79.01.396 (as recodified by this act), the irrigation district, irrigation company, association, individual, or the United States of America, constructing or proposing to construct such irrigation ditch or pipe line for irrigation, or the diking and drainage district or diking and drainage improvement district constructing or proposing to construct any dike or drainage ditch, shall file with the (~~(commissioner of public lands)~~) department a map accompanied by the field notes of the survey and location of the proposed irrigation ditch, pipe line, dike, or drainage ditch, and shall pay to the state as hereinafter provided, the amount of the appraised value of the said lands used for or included within such right of way. The land within said right of way shall be limited to an amount necessary for the construction of the irrigation ditch, pipe line, dike, or drainage ditch for the purposes required, together with sufficient land on either side thereof for ingress and egress to maintain and repair the same.

Sec. 394. RCW 79.01.404 and 1927 c 255 s 10I are each amended to read as follows:

Upon the filing of the plat and field notes as (~~(hereinabove)~~) provided in RCW 79.01.400 (as recodified by this act), the lands included within the right of way applied for shall be appraised as in the case of an application to purchase such lands, at the full market value thereof. Upon full payment of the appraised value of the lands the (~~(commissioner of public lands)~~) department shall issue to the applicant a certificate of right of way, and enter the same in the records in (~~(his)~~) its office and thereafter any sale or lease by the state of the lands affected by such right of way shall be subject thereto.

Sec. 395. RCW 79.01.408 and 1982 1st ex.s. c 21 s 174 are each amended to read as follows:

The (~~(commissioner of public lands)~~) department shall have the power to grant to any person or corporation the right, privilege, and authority to perpetually back and hold water upon or over any state lands, and overflow such lands and inundate the same, whenever the (~~(commissioner)~~) department shall deem it necessary for the purpose of erecting, constructing, maintaining, or operating any water power plant, reservoir, or works for impounding water for power purposes, irrigation, mining, or other public use, but no such rights shall be granted until the value of the lands to be overflowed and any damages to

adjoining lands of the state, appraised as in the case of an application to purchase such lands, shall have been paid by the person or corporation seeking the grant, and if the construction or erection of any such water power plant, reservoir, or works for impounding water for the purposes heretofore specified, shall not be commenced and diligently prosecuted and completed within such time as the ~~((commissioner of public lands))~~ department may prescribe at the time of the grant, the same may be forfeited by the ~~((commissioner of public lands))~~ department by serving written notice of such forfeiture upon the person or corporation to whom the grant was made, but the ~~((commissioner))~~ department, for good cause shown to ~~((his))~~ its satisfaction, may extend the time within which such work shall be completed.

Sec. 396. RCW 79.01.414 and 1982 1st ex.s. c 21 s 175 are each amended to read as follows:

The department ~~((of natural resources))~~ may grant to any person such easements and rights in state lands or state forest lands as the applicant applying therefor may acquire in privately owned lands through proceedings in eminent domain. No grant shall be made under this section until such time as the full market value of the estate or interest granted together with damages to all remaining property of the state of Washington has been ascertained and safely secured to the state.

Sec. 397. RCW 79.01.500 and 1988 c 202 s 59 and 1988 c 128 s 56 are each reenacted and amended to read as follows:

Any applicant to purchase, or lease, any public lands of the state, or any valuable materials thereon, and any person whose property rights or interests will be affected by such sale or lease, feeling ~~((himself))~~ aggrieved by any order or decision of the board ~~((of natural resources))~~, or the commissioner ~~((of public lands))~~, concerning the same, may appeal therefrom to the superior court of the county in which such lands or materials are situated, by serving upon all parties who have appeared in the proceedings in which the order or decision was made, or their attorneys, a written notice of appeal, and filing such notice, with proof, or admission, of service, with the board, or the commissioner, within thirty days from the date of the order or decision appealed from, and at the time of filing the notice, or within five days thereafter, filing a bond to the state, in the penal sum of two hundred dollars, with sufficient sureties, to be approved by the secretary of the board, or the commissioner, conditioned that the appellant shall pay all costs that may be awarded against ~~((him))~~ the appellant on appeal, or the dismissal thereof. Within thirty days after the filing of notice of appeal, the secretary of the board, or the commissioner, shall certify, under official seal, a transcript of all entries in the records of the board, or the commissioner, together with all processes, pleadings and other papers relating to and on file in the case, except evidence used in such proceedings, and file such transcript and papers, at the expense of the applicant, with the clerk of the court to which the appeal is taken. The hearing and trial of said appeal in the superior court shall be de novo before the court, without a jury, upon the pleadings and papers so certified, but the court may order the pleadings to be amended, or new and further pleadings to be filed. Costs on appeal shall be awarded to the prevailing party as in actions commenced in the superior court, but no costs shall be awarded against the state, the board, or the commissioner. Should judgment be rendered against the

appellant, the costs shall be taxed against ~~((him))~~ the appellant and ~~((his))~~ the appellant's sureties on the appeal bond, except when the state is the only adverse party, and shall be included in the judgment, upon which execution may issue as in other cases. Any party feeling ~~((himself))~~ aggrieved by the judgment of the superior court may seek appellate review as in other civil cases. Unless appellate review of the judgment of the superior court is sought, the clerk of said court shall, on demand, certify, under ~~((his))~~ the clerk's hand and the seal of the court, a true copy of the judgment, to the board, or the commissioner, which judgment shall thereupon have the same force and effect as if rendered by the board, or the commissioner. In all cases of appeals from orders or decisions of the commissioner ~~((of public lands))~~ involving the prior right to purchase tidelands of the first class, if the appeal ~~((be))~~ is not prosecuted, heard and determined, within two years from the date of the appeal, the attorney general shall, after thirty days' notice to the appellant of ~~((his))~~ the attorney general's intention so to do, move the court for a dismissal of the appeal, but nothing herein shall be construed to prevent the dismissal of such appeal at any time in the manner provided by law.

Sec. 398. RCW 79.01.612 and 1993 c 49 s 1 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, the department ~~((of natural resources))~~ shall manage and control all lands acquired by the state by escheat or under ~~((chapter 79.66))~~ RCW 79.66.010 through 79.66.100 (as recodified by this act) and all lands acquired by the state by deed of sale or gift or by devise, except such lands which are conveyed or devised to the state to be used for a particular purpose. ~~((The department shall lease the lands in the same manner as school lands. When the department determines to sell the lands, they shall be initially offered for sale either at public auction or direct sale to public agencies as provided in this chapter. If the lands are not sold at public auction, the department may, with approval of the board of natural resources, market the lands through persons licensed under chapter 18.85 RCW or through other commercially feasible means at a price not lower than the land's appraised value and pay necessary marketing costs from the sale proceeds. Necessary marketing costs includes reasonable costs associated with advertising the property and paying commissions. The proceeds of the lease or sale of all such lands shall be deposited into the appropriate fund in the state treasury in the manner prescribed by law, except if the grantor in any such deed or the testator in case of a devise specifies that the proceeds of the sale or lease of such lands be devoted to a particular purpose such proceeds shall be so applied. The department may employ agents to rent any escheated, deeded, or devised lands, or lands acquired under chapter 79.66 RCW, for such rental and time and in such manner as the department directs, but the property shall not be rented by such agent for a longer period than one year and no tenant is entitled to compensation for any improvement which he makes on such property. The agent shall cause repairs to be made to the property as the department directs, and shall deduct the cost thereof, together with such compensation and commission as the department authorizes, from the rentals of such property and the remainder which is collected shall be transmitted monthly to the department of natural resources.))~~

(2) When land is acquired by the state by escheat which because of its location or features may be suitable for park purposes, the department shall

notify the state parks and recreation commission. The department and the commission shall jointly evaluate the land for its suitability for park purposes, based upon the features of the land and the need for park facilities in the vicinity. Where the department and commission determine that such land is suitable for park purposes, it shall be offered for transfer to the commission, or, in the event that the commission declines to accept the land, to the local jurisdiction providing park facilities in that area. When so offered, the payment required by the recipient agency shall not exceed the costs incurred by the department in managing and protecting the land since receipt by the state.

(3) The department may review lands acquired by escheat since January 1, 1983, for their suitability for park purposes, and apply the evaluation and transfer procedures authorized by subsection (2) of this section.

NEW SECTION. Sec. 399. (1) Except as provided in RCW 79.01.612(2) (as recodified by this act), the department shall manage and control all lands acquired by the state by escheat, deed of sale, gift, devise, or under RCW 79.66.010 through 79.66.100 (as recodified by this act), except such lands that are conveyed or devised to the state for a particular purpose.

(2) When the department determines to sell the lands, they shall initially be offered for sale either at public auction or direct sale to public agencies as provided in this chapter.

(3) If the lands are not sold at public auction, the department may, with approval of the board, market the lands through persons licensed under chapter 18.85 RCW or through other commercially feasible means at a price not lower than the land's appraised value.

(4) Necessary marketing costs may be paid from the sale proceeds. For the purpose of this subsection, necessary marketing costs include reasonable costs associated with advertising the property and paying commissions.

(5) Proceeds of the sale shall be deposited into the appropriate fund in the state treasury unless the grantor in any deed or the testator in case of a devise specifies that the proceeds of the sale be devoted to a particular purpose.

NEW SECTION. Sec. 400. (1) Except as provided in RCW 79.01.612(2) (as recodified by this act), the department shall manage and control all lands acquired by the state through escheat, deed of sale, gift, devise, or under RCW 79.66.010 through 79.66.100 (as recodified by this act), except lands that are conveyed or devised to the state for a particular purpose.

(2) The department shall lease the lands in the same manner as school lands.

(3) The department may employ agents to rent any escheated, deeded, or devised lands, or lands acquired under RCW 79.66.010 through 79.66.100 (as recodified by this act) for such rental, time, and manner as the department directs.

(a) The agent shall not rent the property for a period longer than one year.

(b) No tenant is entitled to compensation for any improvement that he or she makes on the property.

(c) The agent shall cause repairs to be made to the property as the department directs.

(d) Rental shall be transmitted monthly to the department. The agent shall deduct the cost of any repairs made under (c) of this subsection, together with

such compensation and commission as the department authorizes from the rental.

(4) Proceeds of any lease or rental shall be deposited into the appropriate fund in the state treasury. If the grantor in any deed or the testator in case of a devise specifies that the proceeds be devoted to a particular purpose, such proceeds shall be so applied.

Sec. 401. RCW 79.01.616 and 1987 c 20 s 1 are each amended to read as follows:

The department (~~(of natural resources)~~) may issue permits and leases for prospecting, and contracts for the mining of valuable minerals and specified materials, except rock, gravel, sand, silt, coal, or hydrocarbons, upon and from any public lands belonging to or held in trust by the state, or which have been sold and the minerals thereon reserved by the state in tracts not to exceed six hundred forty acres or an entire government-surveyed section.

Sec. 402. RCW 79.01.617 and 1987 c 20 s 2 are each amended to read as follows:

The department (~~(of natural resources)~~) may offer nonrenewable placer mining contracts by public auction for the mining of gold under terms set by the department. In the case of lands known to contain valuable minerals or specified materials in commercially significant quantities, the department may offer mining contracts by public auction.

Sec. 403. RCW 79.01.618 and 1987 c 20 s 3 are each amended to read as follows:

The department (~~(of natural resources)~~) may adopt rules necessary for carrying out the mineral leasing, contracting, and permitting provisions of RCW 79.01.616 through 79.01.651 (as recodified by this act). Such rules shall be enacted under chapter 34.05 RCW. The department may amend or rescind any rules adopted under this section. The department shall publish these rules in pamphlet form for the information of the public.

Sec. 404. RCW 79.01.620 and 1987 c 20 s 4 are each amended to read as follows:

Any person desiring to obtain a lease for mineral prospecting purposes upon any lands in which the mineral rights are owned or administered by the department (~~(of natural resources)~~), shall file in the proper office of the department an application or applications therefor, upon the prescribed form, together with application fees. The department may reject an application for a mineral prospecting lease when the department determines rejection to be in the best interests of the state, and in such case shall inform the applicant of the reason for rejection and refund the application fee. The department may also reject the application and declare the application fee forfeited should the applicant fail to execute the lease.

Sec. 405. RCW 79.01.632 and 1987 c 20 s 7 are each amended to read as follows:

The holder of any prospecting lease shall have a preference right to a mining contract on the premises described in the lease if application therefor is made to the department (~~(of natural resources)~~) at least one hundred eighty days prior to the expiration of the prospecting lease.

A lessee applying for a mining contract shall furnish plans for development leading toward production. The plans shall address the reclamation of the property. A mining contract shall be for a term of twenty years.

The first year of the contract and each year thereafter, the lessee shall perform development work in cost amounts as set by the board (~~(of natural resources)~~). The lessee may make payment to the department in lieu of development work.

The lessee may at any time give notice of intent to terminate the contract if all of the covenants of the contract including reclamation are met. The notice of termination of contract shall be made by giving written notice together with copies of all information obtained from the premises. The contract shall terminate sixty days thereafter if all arrears and sums which are due under the contract up to the time of termination have been paid.

The lessee shall have sixty days from the termination date of the contract in which to remove improvements, except those necessary for the safety and maintenance of mine workings, from the premises without material damage to the land or subsurface covered by the contract. However, the lessee shall upon written request to the department be granted an extension where forces beyond the control of the lessee prevent removal of the improvements within sixty days.

Any lessee not converting a prospecting lease to a mining contract shall not be entitled to a new prospecting lease on the lease premises for one year from the expiration date of the prior lease. Such lands included in the prospecting lease shall be open to application by any person other than the prior lessee, and the lessee's agents or associates during the year period described above.

Sec. 406. RCW 79.01.633 and 1987 c 20 s 8 are each amended to read as follows:

Where the surface rights have been sold and the minerals retained by the state, the state's right of entry to these lands is (~~hereby~~) transferred and assigned to the lessee during the life of the lease or contract. No lessee shall commence any operation upon lands covered by his or her lease or contract until the lessee has complied with RCW 79.01.624 (as recodified by this act).

Sec. 407. RCW 79.01.634 and 1987 c 20 s 9 are each amended to read as follows:

The department (~~(of natural resources)~~) shall terminate and cancel a prospecting lease or mining contract upon failure of the lessee to make payment of the annual rental or royalties or comply with the terms and conditions of (~~said~~) the lease or contract upon the date such payments and compliances are due. The lessee shall be notified of such termination and cancellation, said notice to be mailed to the last known address of the lessee. Termination and cancellation shall become effective thirty days from the date of mailing (~~said~~) the notice(~~(- PROVIDED, That)~~). However, the department may, upon written request from the lessee, grant an extension of time in which to make such payment or comply with (~~said~~) the terms and conditions.

Sec. 408. RCW 79.01.640 and 1987 c 20 s 10 are each amended to read as follows:

Prospecting leases or mining contracts referred to in chapter (~~(79.01)~~) 79.14 RCW shall be as prescribed by, and in accordance with rules adopted by the department (~~(of natural resources)~~).

The department may include in any mineral prospecting lease or mining contract to be issued under this chapter such terms and conditions as are customary and proper for the protection of the rights of the state and of the lessee not in conflict with this chapter, or rules adopted by the department.

Any lessee shall have the right to contract with others to work or operate the leased premises or any part thereof or to subcontract the same and the use of ~~((said))~~ the land or any part thereof for the purpose of mining for valuable minerals or specified materials, with the same rights and privileges granted to the lessee. Notice of such contracting or subcontracting with others to work or operate the property shall be made in writing to the department.

Sec. 409. RCW 79.01.644 and 1987 c 20 s 12 are each amended to read as follows:

Mining contracts entered into as provided in chapter ~~((79.01))~~ 79.14 RCW shall provide for the payment to the state of production royalties as set by the board ~~((of natural resources))~~. A lessee shall pay in advance annually a minimum royalty which shall be set by the board ~~((of natural resources))~~. The minimum royalty shall be allowed as a credit against production royalties due during the contract year.

Sec. 410. RCW 79.01.645 and 1987 c 20 s 13 are each amended to read as follows:

The lessee may apply for the renewal of a mining contract, except placer mining contracts issued pursuant to RCW 79.01.617 (as recodified by this act), to the department within ninety days before the expiration of the contract. Upon receipt of the application, the department shall make the necessary investigation to determine whether the terms of the contract have been complied with, and if the department finds they have been complied with in good faith, the department shall renew the contract. The terms and conditions of the renewal contract shall remain the same except for royalty rates, which shall be determined by reference to then existing law.

Sec. 411. RCW 79.01.648 and 1965 c 56 s 13 are each amended to read as follows:

The holders of two or more mining contracts may consolidate ~~((said))~~ the contracts under a common management to permit proper operation of large scale developments. Notification of such consolidation shall be made to the department ~~((of natural resources))~~, together with a statement of plans of operation and proposed consolidation. The department may thereafter make examinations and investigations and if it finds that such consolidation is not in the best interest of the state, it shall disapprove such consolidated operation.

Sec. 412. RCW 79.01.649 and 1965 c 56 s 14 are each amended to read as follows:

Any person designated by the department ~~((of natural resources))~~ shall have the right at any time to enter upon the lands and inspect and examine the structures, works, and mines situated thereon, and shall also have the right to examine such books, records, and accounts of the lessee as are directly connected with the determination of royalties on the property under lease from the state but it shall be unlawful for any person so appointed to disclose any information thus obtained to any person other than the departmental officials and employees, except the attorney general and prosecuting attorneys of the state.

Sec. 413. RCW 79.01.650 and 1987 c 20 s 14 are each amended to read as follows:

The state shall have the right to sell or otherwise dispose of any surface resource, timber, rock, gravel, sand, silt, coal, or hydrocarbons, except minerals or materials specifically covered by a mineral prospecting lease or mining contract, found upon the land during the period covered by ~~((said))~~ the lease or contract. The state shall also have the right to enter upon such land and remove same, and shall not be obliged to withhold from any sale any timber for prospecting or mining purposes. The lessee shall, upon payment to the department ~~((of natural resources))~~, have the right to cut and use timber found on the leased premises for mining purposes as provided in rules adopted by the department.

Sec. 414. RCW 79.01.652 and 1927 c 255 s 163 are each amended to read as follows:

The ~~((commissioner of public lands))~~ department is authorized to execute option contracts and leases for the mining and extraction of coal from any public lands of the state, or to which it may hereafter acquire title, or from any lands sold or leased by the state the minerals of which have been reserved by the state.

Sec. 415. RCW 79.01.656 and 1927 c 255 s 164 are each amended to read as follows:

Any citizen of the United States believing coal to exist upon any of the lands described in ~~((the preceding section))~~ RCW 79.01.652 (as recodified by this act) may apply to the ~~((commissioner of public lands))~~ department for an option contract for any amount not exceeding one section for prospecting purposes, such application to be made by legal subdivision according to the public land surveys. The applicant shall pay to the ~~((commissioner of public lands))~~ department, at the time of filing ~~((his))~~ the application, the sum of one dollar an acre for the lands applied for, but in no case less than fifty dollars. In case of the refusal of the ~~((commissioner))~~ department to execute an option contract for the lands, any remainder of the sum so paid, after deducting the expense incurred by the ~~((commissioner))~~ department in investigating the character of the land, shall be returned to the applicant.

Sec. 416. RCW 79.01.660 and 1927 c 255 s 165 are each amended to read as follows:

(1) Upon the filing of any such application, the ~~((commissioner of public lands))~~ department shall forthwith investigate the character of the lands applied for, and if, from such investigation, ~~((he))~~ it deems it to be in the best interests of the state ~~((he)), it~~ shall enter into an option contract with the applicant.

(2) The holder of any option contract shall be entitled, during the period of one year from the date thereof, to:

(a) Enter upon the lands and carry on such work of exploration, examination, and prospecting for coal as may be necessary to determine the presence of coal upon the lands and the feasibility of mining the same ~~((He shall have the right to)); and~~

(b) Use such timber found upon the lands and owned by the state as may be necessary for steam purposes and timbering in the examination and prospecting of such lands ~~((PROVIDED, That)),~~ However, this provision shall not be construed to require the state to withhold any such timber from sale.

(3) No coal shall be removed from such lands during the period of such option contract except for samples and testing.

(4) At the expiration of the option contract, the applicant shall fill or cover in a substantial manner all prospect holes and shafts, or surround the same with substantial fences, and shall file with the ~~((commissioner of public lands))~~ department a report showing in detail the result of ~~((his))~~ the applicant's investigation and prospecting.

Sec. 417. RCW 79.01.664 and 1927 c 255 s 166 are each amended to read as follows:

In the case of lands which the state may have sold or leased and reserved the mineral rights therein, if the holder of any option contract or lease ~~((shall be))~~ is unable to agree with the owner or prior lessee of the lands, ~~((he))~~ the holder shall have a right of action in the superior court of the county in which the land is situated to ascertain and determine the amount of damages which will accrue to such owner or lessee of the land by reason of the entry thereon and prospecting for or mining coal, as the case may be. In the event of any such action, the term of the option contract or lease shall begin thirty days after the entry of the final judgment in such action.

Sec. 418. RCW 79.01.668 and 1985 c 459 s 1 are each amended to read as follows:

At any time during the life of the option contract, the holder thereof may apply to the ~~((commissioner of public lands))~~ department for a coal mining lease of the lands included therein, or such portion thereof as ~~((he))~~ the holder may specify, for the purpose of mining and extraction of coal therefrom. Such coal mining lease shall be for such term, not more than twenty years, and in such form as may be prescribed by the ~~((commissioner of public lands))~~ department, shall entitle the lessee to mine and sell and dispose of all coal underlying said lands and to occupy and use so much of the surface thereof as may be necessary for bunkers and other outside works, and for railroads, buildings, appliances, and appurtenances in connection with the mining operations. Such lease shall provide for the payment to the state of a royalty, according to the grade of coal, for each ton of two thousand pounds of merchantable coal taken from the lands, as follows: For lignite coal of the class commonly found in Lewis and Thurston counties, not less than ten cents per ton; for subbituminous coal, not less than fifteen cents per ton; for high grade bituminous and coking coals, not less than twenty cents per ton; but such lease shall provide for the payment each year of a minimum royalty of not less than one nor more than ten dollars an acre for the lands covered thereby~~((: PROVIDED, That the commissioner of public lands))~~. However, the department may agree with the lessee that said minimum royalty shall be graduated for the different years of said lease so that a lower minimum royalty shall be paid during the earlier years of the term. The minimum royalty fixed in the lease shall be paid in advance each year, and the lessee, at stated periods during the term of the lease, fixed by the ~~((commissioner))~~ department, shall furnish to the ~~((commissioner of public lands))~~ department a written report under oath showing the amount of merchantable coal taken from the land during the period covered by such report and shall remit therewith such sum in excess of the minimum royalty theretofore paid for the current year as may be payable as royalty for the period covered by such report.

The ~~((commissioner))~~ department shall incorporate in every lease such provisions and conditions not inconsistent with the provisions of this chapter and not inconsistent with good coal mining practice as ~~((he shall))~~ it deems necessary and proper for the protection of the state, and, in addition thereto, the ~~((commissioner shall be))~~ department is empowered to ~~((prescribe))~~ adopt such rules ~~((and regulations))~~, not inconsistent with this chapter and not inconsistent with good mining practice, governing the manner and methods of mining as in ~~((his))~~ its judgment are necessary and proper.

Sec. 419. RCW 79.01.672 and 1927 c 255 s 168 are each amended to read as follows:

In the case of lands known to contain workable coal, the ~~((commissioner))~~ department may, in ~~((his))~~ its discretion, issue coal mining leases under the ~~((foregoing))~~ provisions of RCW 79.01.668 (as recodified by this act) although no option contract has been theretofore issued for such lands.

Sec. 420. RCW 79.01.676 and 1927 c 255 s 169 are each amended to read as follows:

The commissioner ~~((of public lands))~~ or any person designated by ~~((him shall have))~~ the commissioner has the right at any time to enter upon the lands and inspect and examine the structures, works, and mines situated thereon, and ~~((shall))~~ also ~~((have))~~ has the right to examine such books, records, and accounts of the lessee as are directly connected with the operation of the mine on the property under lease from the state; but it shall be unlawful for the commissioner or any person so appointed to disclose any information thus obtained to any person other than the commissioner ~~((of public lands and his employees))~~ or an employee of the department, except the attorney general and prosecuting attorneys of the state.

Sec. 421. RCW 79.01.680 and 1927 c 255 s 170 are each amended to read as follows:

The state shall have the right to sell or otherwise dispose of any timber, stone, or other valuable materials, except coal, found upon the land during the period covered by any option contract, or lease issued under the foregoing provisions, with the right to enter upon such lands and cut and remove the same, and shall not be obliged to withhold from sale any timber for coal mining or prospecting purposes ~~((:—PROVIDED, That))~~. However, the lessee shall be permitted to use in ~~((his))~~ mining operations any timber found upon the land, first paying therefor to the ~~((commissioner of public lands))~~ department the value thereof as fixed by ~~((said commissioner: AND PROVIDED FURTHER, That))~~ the department. Further, any bill of sale for the removal of timber, stone, or other material given subsequent to the coal lease shall contain provisions preventing any interference with the operations of the coal lease.

Sec. 422. RCW 79.01.684 and 1927 c 255 s 171 are each amended to read as follows:

Should the lessee for any reason, except strikes or inability to mine or dispose of ~~((his))~~ output without loss, suspend mining operations upon the lands included in ~~((his))~~ a lease, or upon any contiguous lands operated by ~~((him))~~ the lessee in connection therewith, for a period of six months, or should the lessee for any reason suspend mining operations upon the lands included in ~~((his))~~ a lease or in such contiguous lands for a period of twelve months, the

~~((commissioner of public lands))~~ department may, at ~~((his))~~ its option, cancel the lease, first giving thirty days' notice in writing to the lessee.

The lessee shall have the right to terminate the lease after thirty days' written notice to the ~~((commissioner of public lands))~~ department and the payment of all royalties and rentals then due.

Sec. 423. RCW 79.01.688 and 1927 c 255 s 172 are each amended to read as follows:

Upon the termination of any lease issued under the foregoing provisions, the lessee shall surrender the lands and premises and leave in good order and repair all shafts, slopes, airways, tunnels, and watercourses then in use. Unless the coal therein is exhausted, ~~((he))~~ the lessee shall also, as far as it is reasonably practicable so to do, leave open to the face all main entries then in use so that the work of further development and operation may not be unnecessarily hampered. ~~((He))~~ The lessee shall also leave on the premises all buildings and other structures, but shall have the right to, without damage to such buildings and structures, remove all tracks, machinery, and other personal property.

Sec. 424. RCW 79.01.692 and 1927 c 255 s 173 are each amended to read as follows:

If at the expiration of any lease for the mining and extraction of coal or any renewal thereof the lessee desires to re-lease the lands covered thereby, ~~((he))~~ the lessee may make application to the ~~((commissioner of public lands))~~ department for a re-lease. Such application shall be in writing and under oath, setting forth the extent, character, and value of all improvements, development work, and structures existing upon the land. The ~~((commissioner of public lands))~~ department may on the filing of such application cause the lands to be inspected, and if ~~((he))~~ the department deems it for the best interests of the state to re-lease said lands, ~~((he))~~ it shall fix the royalties for the ensuing term in accordance with the foregoing provisions relating to original leases, and issue to the applicant a renewal lease for a further term; such application for a release when received from the lessee, or successor of any lessee, who has in good faith developed and improved the property in a substantial manner during ~~((his))~~ the original lease to be given preference on equal terms against the application of any new applicant.

Sec. 425. RCW 79.01.696 and 1927 c 255 s 174 are each amended to read as follows:

It shall be unlawful for the holder of any coal mining option contract, or any lessee, to commit any waste upon the lands embraced therein, except as may be incident to ~~((his))~~ the work of prospecting or mining by the option contract holder or lessee.

Sec. 426. RCW 79.01.708 and 1988 c 128 s 57 are each amended to read as follows:

All maps, plats, and field notes of surveys, required to be made by this ~~((chapter))~~ title shall, after approval by the department ~~((of natural resources, or the commissioner of public lands, as the case may be)),~~ be deposited and filed in the office of the ~~((commissioner of public lands))~~ department, ~~((who))~~ which shall keep a careful and complete record and index of all maps, plats, and field notes of surveys in ~~((his))~~ its possession, in well bound books, which shall at all times be open to public inspection.

Sec. 427. RCW 79.01.712 and 1988 c 128 s 58 are each amended to read as follows:

All notices, orders, contracts, certificates, rules and regulations, or other documents or papers made and issued by or on behalf of the department (~~(of natural resources)~~), or the commissioner (~~(of public lands)~~), as provided in this (~~(chapter)~~) title, shall be authenticated by a seal whereon shall be the vignette of George Washington, with the words "Seal of the commissioner of public lands, State of Washington."

Sec. 428. RCW 79.01.720 and 1979 ex.s. c 109 s 18 are each amended to read as follows:

The (~~(commissioner of public lands for services performed by him,)~~) department may charge and collect fees as determined by the board (~~(of natural resources)~~) for each category of services performed based on costs incurred.

Sec. 429. RCW 79.01.724 and 1979 ex.s. c 109 s 19 are each amended to read as follows:

The (~~(commissioner of public lands)~~) department shall keep a fee book, in which shall be entered all fees received (~~(by him)~~), with the date paid and the name of the person paying the same, and the nature of the services rendered for which the fee is charged, which book shall be verified monthly by (~~(his)~~) affidavit entered therein(~~(-and)~~). All fees collected by (~~(him)~~) the department shall be paid into the state treasury, as applicable, to the (~~(RMCA within the general fund)~~) resource management cost account created in RCW 79.64.020 (as recodified by this act), the forest development account created in RCW 76.12.110 (as recodified by this act), or the agricultural college trust management account fund as established under RCW 79.64.090 (as recodified by this act), and the receipt of the state treasurer taken (~~(therefor)~~) and retained in the department's Olympia office (~~(of the commissioner of public lands)~~) as a voucher.

Sec. 430. RCW 79.01.728 and 1927 c 255 s 192 are each amended to read as follows:

(1) When any public land of the state (~~(as defined in this chapter shall have been assessed)~~) is offered for sale and the state has paid assessments for local improvements, or (~~(for)~~) benefits, (~~(by)~~) to any municipal corporation authorized by law to assess the same, (~~(and such)~~) the amount of the assessments (~~(have been)~~) paid by the state(~~(, and such land is offered for sale, there)~~) shall be added to the appraised value of such land(~~(, appraised as provided by this chapter,)~~).

(2) The amount of assessments paid by the state(~~(, which amount so added)~~) shall be paid by the purchaser(~~(;)~~) in addition to the amount due the state for the land.

(3) In case of sale(~~(;)~~) by contract under RCW 79.08.110 (as recodified by this act) the purchaser may pay the assessments in equal annual installments at the same time, and with the same rate of interest upon deferred payments, as the installments of the purchase price for the land are paid(~~(, in addition to the amounts otherwise due to the state for said land, and)~~).

(4) No deed shall be executed until such assessments have been paid.

Sec. 431. RCW 79.01.736 and 1959 c 257 s 40 are each amended to read as follows:

It shall be the duty of the attorney general, to institute, or defend, any action or proceeding to which the state, or the commissioner (~~(of public lands,)~~) or the board (~~(of natural resources)~~), is or may be a party, or in which the interests of the state are involved, in any court of this state, or any other state, or of the United States, or in any department of the United States, or before any board or tribunal, when requested so to do by the commissioner (~~(of public lands)~~), or the board (~~(of natural resources)~~), or upon ((his)) the attorney general's own initiative.

The commissioner (~~(of public lands)~~) is authorized to represent the state in any such action or proceeding relating to any public lands of the state.

Sec. 432. RCW 79.01.740 and 1982 1st ex.s. c 21 s 177 are each amended to read as follows:

The department (~~(of natural resources)~~) may review and reconsider any of its official acts relating to state lands until such time as a lease, contract, or deed shall have been made, executed, and finally issued, and the department may recall any lease, contract, or deed issued for the purpose of correcting mistakes or errors, or supplying omissions.

Sec. 433. RCW 79.01.744 and 1997 c 448 s 3 are each amended to read as follows:

(1) It shall be the duty of the (~~(commissioner of public lands)~~) department to report, and recommend, to each session of the legislature, any changes in the law relating to the methods of handling the public lands of the state that ~~((he))~~ the department may deem advisable.

(2) The (~~(commissioner of public lands)~~) department shall provide a comprehensive biennial report to reflect the previous fiscal period. The report shall include, but not be limited to, descriptions of all department activities including: Revenues generated, program costs, capital expenditures, personnel, special projects, new and ongoing research, environmental controls, cooperative projects, intergovernmental agreements, the adopted sustainable harvest compared to the sales program, and outlines of ongoing litigation, recent court decisions, and orders on major issues with the potential for state liability. The report shall describe the status of the resources managed and the recreational and commercial utilization. The report ~~((shall be given to the chairs of the house and senate committees on ways and means and the house and senate committees on natural resources, including one copy to the staff of each of the committees, and shall be))~~ must be delivered to the appropriate committees of the legislature and made available to the public.

(3) The (~~(commissioner of public lands)~~) department shall provide annual reports to the respective trust beneficiaries, including each county. The report shall include, but not be limited to, the following: Acres sold, acres harvested, volume from those acres, acres planted, number of stems per acre, acres precommercially thinned, acres commercially thinned, acres partially cut, acres clear cut, age of final rotation for acres clear cut, and the total number of acres off base for harvest and an explanation of why those acres are off base for harvest.

Sec. 434. RCW 79.01.752 and 1927 c 255 s 198 are each amended to read as follows:

Every person being in lawful possession of any public lands of the state, under and by virtue of any lease or contract of purchase from the state, cuts down, destroys, or injures, or causes to be cut down, destroyed, or injured, any timber standing or growing thereon, or takes or removes, or causes to be taken or removed, therefrom, any wood or timber lying thereon, or maliciously injures or severs anything attached thereto, or the produce thereof, or digs, quarries, mines, takes, or removes therefrom, any earth, soil, clay, sand, gravel, stone, mineral, or other valuable material, or causes the same to be done, or otherwise injures, defaces, or damages, or causes to be injured, defaced, or damaged, any such lands unless expressly authorized so to do by the lease or contract under which ~~((he holds))~~ possession of such lands is held, or by the provisions of law under and by virtue of which such lease or contract was issued, shall be guilty of a misdemeanor.

Sec. 435. RCW 79.01.760 and 1994 c 280 s 2 are each amended to read as follows:

(1) Every person who, without authorization, uses or occupies public lands, removes any valuable material as defined in RCW 79.01.038 (as recodified by this act) from public lands, or causes waste or damage to public lands, or injures publicly owned personal property or publicly owned improvements to real property on public lands, is liable to the state for treble the amount of the damages. However, liability shall be for single damages if the department ~~((of natural resources))~~ determines, or the person proves upon trial, that the person, at time of the unauthorized act or acts, did not know, or have reason to know, that he or she lacked authorization. Damages recoverable under this section include, but are not limited to, the market value of the use, occupancy, or things removed, had the use, occupancy, or removal been authorized; and any damages caused by injury to the land, publicly owned personal property or publicly owned improvement, including the costs of restoration. In addition, the person is liable for reimbursing the state for its reasonable costs, including but not limited to, its administrative costs, survey costs to the extent they are not included in damages awarded for restoration costs, and its reasonable attorneys' fees and other legal costs.

(2) This section does not apply in any case where liability for damages is provided under RCW 64.12.030, 4.24.630, 79.01.756 (as recodified by this act), or 79.40.070 (as recodified by this act).

(3) The department ~~((of natural resources))~~ is authorized and directed to investigate all trespasses and wastes upon, and damages to, public lands of the state, and to cause prosecutions for, and/or actions for the recovery of ~~((:))~~ the same ~~((:))~~ to be commenced as is provided by law.

Sec. 436. RCW 79.01.765 and 1994 c 56 s 1 are each amended to read as follows:

The department ~~((of natural resources))~~ is authorized to offer and pay a reward not to exceed ten thousand dollars in each case for information regarding violations of any statute or rule relating to the state's public lands and natural resources on those lands, except forest practices under chapter 76.09 RCW. No reward may be paid to any federal, state, or local government or agency employees for information obtained by them in the normal course of their employment. The department ~~((of natural resources))~~ is authorized to adopt

rules in pursuit of its authority under this section to determine the appropriate account or fund from which to pay the reward. The department is also authorized to adopt rules establishing the criteria for paying a reward and the amount to be paid. No appropriation shall be required for disbursement.

Sec. 437. RCW 79.01.770 and 1985 c 200 s 1 are each amended to read as follows:

Notwithstanding the provisions of RCW 79.01.096 (as recodified by this act) or any other provision of law, any school district or institution of higher education leasing land granted to the state by the United States and on which land such district or institution has placed improvements as defined in RCW ((79.01.036)) 79.01.004 (as recodified by this act) shall be afforded the opportunity by the department ((of natural resources)) at any time to purchase such land, excepting land over which the department retains management responsibilities, for the purposes of schoolhouse construction and/or necessary supporting facilities or structures at the appraised value thereof less the value that any improvements thereon added to the value of the land itself at the time of the sale thereof.

Sec. 438. RCW 79.01.774 and 1990 c 33 s 596 are each amended to read as follows:

The purchases authorized under RCW 79.01.770 (as recodified by this act) shall be classified as for the construction of common school plant facilities under 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.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. 439. RCW 79.01.778 and 1971 ex.s. c 200 s 4 are each amended to read as follows:

In those cases where the purchases, as authorized by RCW 79.01.770 and 79.01.774 (as recodified by this act), have been made on a ten year contract, the board ((of natural resources)), if it deems it in the best interest of the state, may extend the term of any such contract to not to exceed an additional ten years under such terms and conditions as the board may determine.

Sec. 440. RCW 79.01.780 and 1971 ex.s. c 200 s 5 are each amended to read as follows:

Notwithstanding any other provisions of law, annually the board ((of natural resources)) shall determine if lands purchased or leased by school districts or institutions of higher education under the provisions of RCW 79.01.096 and 79.01.770 (as recodified by this act) are being used for school sites. If such land has not been used for school sites for a period of seven years the title to such land shall revert to the original trust for which it was held.

Sec. 441. RCW 79.01.784 and 1979 ex.s. c 56 s 1 are each amended to read as follows:

The purpose of this section is to foster cooperative planning ((between)) among the state ((of Washington)), the department ((of natural resources)), and local governments as to state-owned lands under the department's jurisdiction situated in urban areas.

At least once a year, prior to finalizing the department's urban land leasing action plan, the department and applicable local governments shall meet to review state and local plans and to coordinate planning in areas where urban lands are located. The department and local governments may enter into formal agreements for the purpose of planning the appropriate development of these state-owned urban lands.

The department shall contact those local governments which have planning, zoning, and land-use regulation authority over areas where urban lands under its jurisdiction are located so as to facilitate these annual or other meetings.

"Urban lands" as used in this section (~~shall~~) means those areas which within ten years are expected to be intensively used for locations of buildings(~~(s)~~) or structures, and usually have urban governmental services.

"Local government" as used in this section (~~shall~~) means counties, cities, and towns having planning and land-use regulation authority.

Sec. 442. RCW 79.01.805 and 1996 c 46 s 1 are each amended to read as follows:

(1) The maximum daily wet weight harvest or possession of seaweed for personal use from all aquatic lands as defined under RCW 79.90.010 and all privately owned tidelands is ten pounds per person. The department (~~(of natural resources)~~) in cooperation with the department of fish and wildlife may establish seaweed harvest limits of less than ten pounds for conservation purposes. This section shall in no way affect the ability of any state agency to prevent harvest of any species of marine aquatic plant from lands under its control, ownership, or management.

(2) Except as provided under subsection (3) of this section, commercial harvesting of seaweed from aquatic lands as defined under RCW 79.90.010, and all privately owned tidelands is prohibited. This subsection shall in no way affect commercial seaweed aquaculture.

(3) Upon mutual approval by the department and the department of fish and wildlife, seaweed species of the genus *Macrocystis* may be commercially harvested for use in the herring spawn-on-kelp fishery.

(4) Importation of seaweed species of the genus *Macrocystis* into Washington state for the herring spawn-on-kelp fishery is subject to the fish and shellfish disease control policies of the department of fish and wildlife. *Macrocystis* shall not be imported from areas with fish or shellfish diseases associated with organisms that are likely to be transported with *Macrocystis*. The department shall incorporate this policy on *Macrocystis* importation into its overall fish and shellfish disease control policies.

Sec. 443. RCW 79.01.810 and 1994 c 286 s 2 are each amended to read as follows:

It is unlawful to exceed the harvest and possession restrictions imposed under RCW 79.01.805 (as recodified by this act). A violation of this section is a misdemeanor punishable in accordance with RCW 9.92.030, and a violation taking place on aquatic lands is subject to the provisions of RCW 79.01.760 (as recodified by this act). A person committing a violation of this section on private tidelands which he or she owns is liable to the state for treble the amount of damages to the seaweed resource, and a person trespassing on private tidelands and committing a violation of this section is liable to the private

tideland owner for treble the amount of damages to the seaweed resource. Damages recoverable include, but are not limited to, damages for the market value of the seaweed, for injury to the aquatic ecosystem, and for the costs of restoration. In addition, the person is liable for reimbursing the injured party for the party's reasonable costs, including but not limited to investigative costs and reasonable attorneys' fees and other litigation-related costs.

Sec. 444. RCW 79.01.815 and 1994 c 286 s 3 are each amended to read as follows:

The department of fish and wildlife and law enforcement authorities may enforce the provisions of RCW 79.01.805 and 79.01.810 (as recodified by this act).

Sec. 445. RCW 79.08.015 and 1979 c 54 s 1 are each amended to read as follows:

Before (~~the department of natural resources presents~~) a proposed exchange is presented to the board (~~of natural resources~~) involving an exchange of any lands under the administrative control of the department (~~of natural resources~~), the department shall hold a public hearing on the proposal in the county where the state-owned land or the greatest proportion thereof is located. Ten days but not more than twenty-five days prior to such hearing, the department shall publish a paid public notice of reasonable size in display advertising form, setting forth the date, time, and place of the hearing, at least once in one or more daily newspapers of general circulation in the county and at least once in one or more weekly newspapers circulated in the area where the state-owned land is located. A news release pertaining to the hearing shall be disseminated among printed and electronic media in the area where the state-owned land is located. The public notice and news release also shall identify lands involved in the proposed exchange and describe the purposes of the exchange and proposed use of the lands involved. A summary of the testimony presented at the hearings shall be prepared for the board's consideration when reviewing the department's exchange proposal. If there is a failure to substantially comply with the procedures set forth in this section, then the exchange agreement shall be subject to being declared invalid by a court. Any such suit must be brought within one year from the date of the exchange agreement.

Sec. 446. RCW 79.08.070 and 1917 c 66 s 1 are each amended to read as follows:

For the purpose of securing an area suitable for a demonstration forest and forest experiment station for the University of Washington authority is hereby granted the board of regents of the University of Washington and the (~~commissioner of public lands~~) department with the (~~advice and~~) approval of the (~~state~~) board (~~of land commissioners~~), (~~and~~) acting with the advice and approval of the attorney general, to exchange all or any portion of the granted lands of the University of Washington assigned for the support of said university by section 9 of chapter 122 of the act of March (~~14th~~) 14, 1893, enacted by the legislature of Washington, being entitled, "An act providing for the location, construction and maintenance of the University of Washington, and making an appropriation therefor, and declaring an emergency," for all or any portion of such lands as may be acquired by the state under and by virtue of chapter 102, (~~of the Session~~) Laws of (~~Washington for the year~~) 1913, being: "An act

relating to lands granted to the state for common schools and for educational, penal, reformatory, charitable, capitol buildings and other purposes providing for the completion of such grants and the relinquishment of certain granted lands; and making an appropriation," approved March ~~((18th))~~ 18, 1913, by exchange with the United States in the Pilchuck-Sultan-Wallace watersheds included within the present boundaries of the Snoqualmie national forest. ~~((Said))~~ The board of regents and ~~((commissioner of public lands))~~ department with the advice and approval ~~((aforesaid))~~ required by this section are hereby authorized to execute such agreements, writings, or relinquishments as are necessary or proper for the purpose of carrying said exchange into effect and such agreements or other writings to be executed in duplicate, one to be filed with the ~~((commissioner of public lands))~~ department and one to be delivered to the ~~((said))~~ board of regents. ~~((Said))~~ The exchange shall be made upon the basis of equal values to be determined by careful valuation of the areas to be exchanged.

Sec. 447. RCW 79.08.080 and 1988 c 127 s 33 are each amended to read as follows:

Whenever application is made to the ~~((commissioner of public lands))~~ department by any incorporated city or town or metropolitan park district for the use of any state owned tide or shore lands within the corporate limits of said city or town or metropolitan park district for municipal park and/or playground purposes, ~~((he))~~ the department shall cause such application to be entered in the records of ~~((his))~~ its office, and shall then forward the same to the governor, who shall appoint a committee of five representative citizens of ~~((said))~~ the city or town, in addition to the commissioner ~~((of public lands))~~ and the director of ecology, both of whom shall be ex officio members of ~~((said))~~ the committee, to investigate ~~((said))~~ the lands and determine whether they are suitable and needed for such purposes; and, if they so find, the ~~((land))~~ commissioner shall certify to the governor that the property shall be deeded, when in accordance with RCW 79.94.150 and 79.94.160, to the ~~((said))~~ city or town or metropolitan park district and the governor shall then execute a deed in the name of the state of Washington, attested by the secretary of state, conveying the use of such lands to ~~((said))~~ the city or town or metropolitan park district for said purposes for so long as it shall continue to hold, use, and maintain ~~((said))~~ the lands for such purposes.

Sec. 448. RCW 79.08.090 and 1939 c 157 s 2 are each amended to read as follows:

In the event there are no state-owned tide or shore lands in any such city or town or metropolitan park district suitable for ~~((such))~~ the purposes of RCW 79.08.080 (as recodified by this act) and the committee finds other lands therein which are suitable and needed therefor, the ~~((commissioner of public lands))~~ department is hereby authorized to secure the same by exchanging state-owned tide or shore lands in the same county of equal value therefor, and the use of the lands so secured shall be conveyed to any such city or town or metropolitan park district as provided for in RCW 79.08.080 (as recodified by this act). In all such exchanges the ~~((commissioner of public lands shall be and he))~~ department is hereby authorized and directed, with the assistance of the attorney general, to execute such agreements, writings, relinquishments, and deeds as are necessary

or proper for the purpose of carrying such exchanges into effect. Upland owners shall be notified of such state-owned tide or shore lands to be exchanged.

Sec. 449. RCW 79.08.110 and 1931 c 105 s 1 are each amended to read as follows:

Whenever the state shall have heretofore sold or may hereafter sell any state lands and issued a contract of purchase or executed a deed of conveyance therefor, in which there is a reservation of all oils, gases, coal, ores, minerals, and fossils of every kind and of rights in connection therewith, and the United States of America shall have acquired for governmental purposes and uses all right, title, claim, and interest of the purchaser, or grantee, or his or her successors in interest or assigns, in or to ~~((said))~~ the contract or the land described therein, except such reserved rights, and no oils, gases, coal, ores, minerals, or fossils of any kind have been discovered or are known to exist in or upon such lands, the commissioner ~~((of public lands))~~ may, if ~~((he deems))~~ it is advisable, cause to be prepared a deed of conveyance to the United States of America of such reserved rights, and certify the same to the governor in the manner provided by law for deeds to state lands, and the governor shall be, and hereby is authorized to execute, and the secretary of state to attest, a deed of conveyance for such reserved rights to the United States of America.

Sec. 450. RCW 79.08.120 and 1941 c 66 s 1 are each amended to read as follows:

State lands may be leased to the United States for national defense purposes at the fair rental value thereof as determined by the ~~((commissioner of public lands))~~ department, for a period of five years or less. Such leases may be made without competitive bidding at public auction and without payment in advance by the United States government of the first year's rental. Such leases otherwise shall be negotiated and arranged in the same manner as other leases of state lands.

Sec.451. RCW 79.08.170 and 1991 c 363 s 152 are each amended to read as follows:

The duties of the county auditor in each county with a population of two hundred ten thousand or more, with regard to sales and leases ~~((of the state lands))~~ dealt with under this title ~~((79 RCW))~~ except RCW 79.01.100 (as recodified by this act), 79.01.104 (as recodified by this act), and 79.94.040, are transferred to the county treasurer.

Sec. 452. RCW 79.08.180 and 1987 c 113 s 1 are each amended to read as follows:

The department ~~((of natural resources))~~, with the approval of the board ~~((of natural resources))~~, may exchange any state land and any timber thereon for any land of equal value in order to:

- (1) Facilitate the marketing of forest products of state lands;
- (2) Consolidate and block-up state lands;
- (3) Acquire lands having commercial recreational leasing potential;
- (4) Acquire county-owned lands;
- (5) Acquire urban property which has greater income potential or which could be more efficiently managed by the department in exchange for state urban lands as defined in RCW 79.01.784 (as recodified by this act); or

(6) Acquire any other lands when such exchange is determined by the board ((of natural resources)) to be in the best interest of the trust for which the state land is held.

(7) Land exchanged under this section shall not be used to reduce the publicly owned forest land base.

(8) The board ((of natural resources)) shall determine that each land exchange is in the best interest of the trust for which the land is held prior to authorizing the land exchange.

Sec. 453. RCW 79.08.250 and 1979 c 24 s 1 are each amended to read as follows:

The department ((of natural resources)) may exchange surplus real property previously acquired by the department as administrative sites. The property may be exchanged for any public or private real property of equal value, to preserve archeological sites on trust lands, to acquire land to be held in natural preserves, to maintain habitats for endangered species, or to acquire or enhance sites to be dedicated for recreational purposes.

Sec. 454. RCW 79.08.260 and 2001 c 150 s 2 are each amended to read as follows:

(1) The department ((of natural resources)) is authorized to exchange bedlands abandoned through rechanneling of the Cowlitz river near the confluence of the Columbia river so that the state obtains clear title to the Cowlitz river as it now exists or where it may exist in the future through the processes of erosion and accretion.

(2) The department ((of natural resources)) is also authorized to exchange bedlands and enter into boundary line agreements to resolve any disputes that may arise over the location of state-owned lands now comprising the dike that was created in the 1920s.

(3) For purposes of chapter 150, Laws of 2001, "Cowlitz river near the confluence of the Columbia river" means those tidelands and bedlands of the Cowlitz river fronting and abutting sections 10, 11, and 14, township 7 north, range 2 west, Willamette Meridian and fronting and abutting the Huntington Donation Land Claim No. 47 and the Blakeny Donation Land Claim No. 43, township 7 north, range 2 west, Willamette Meridian.

(4) Nothing in chapter 150, Laws of 2001 shall be deemed to convey to the department ((of natural resources)) the power of eminent domain.

Sec. 455. RCW 79.08.275 and 2000 c 11 s 23 are each amended to read as follows:

Except as provided in RCW 79A.05.120 and 79A.05.125, the portion of the Milwaukee Road corridor from the west end of the bridge structure over the Columbia river, which point is located in section 34, township 16 north, range 23 east, W.M., to the Idaho border purchased by the state shall be under the management and control of the department ((of natural resources)).

Sec. 456. RCW 79.08.275 and 1989 c 129 s 2 are each amended to read as follows:

The portion of the Milwaukee Road corridor from the west end of the bridge structure over the Columbia river, which point is located in section 34, township 16 north, range 23 east, W.M., to the Idaho border purchased by the state shall be under the management and control of the department ((of natural resources)).

Sec. 457. RCW 79.08.277 and 1984 c 174 s 7 are each amended to read as follows:

The portion of the Milwaukee Road corridor under management and control of the department (~~(of natural resources)~~) shall be open to individuals or organized groups (~~(which)~~) that obtain permits from the department (~~(of natural resources)~~) to travel the corridor for recreational purposes. The department (~~(of natural resources)~~) shall, for the purpose of issuing permits for corridor use, (~~(promulgate)~~) adopt rules necessary for the orderly and safe use of the corridor and protection of adjoining landowners. Permit fees shall be established at a level that will cover costs of issuance. Upon request of abutting landowners, the department shall notify the landowners of permits issued for use of the corridor adjacent to their property.

Sec. 458. RCW 79.08.279 and 1984 c 174 s 8 are each amended to read as follows:

The department (~~(of natural resources)~~) may do the following with respect to the portion of the Milwaukee Road corridor under its control:

- (1) Enter into agreements to allow the realignment or modification of public roads, farm crossings, water conveyance facilities, and other utility crossings;
- (2) Regulate activities and restrict uses, including, but not limited to, closing portions of the corridor to reduce fire danger or protect public safety in consultation with local legislative authorities or fire districts;
- (3) Place hazard warning signs and close hazardous structures;
- (4) Renegotiate deed restrictions upon agreement with affected parties; and
- (5) Approve and process the sale or exchange of lands or easements if (a) such a sale or exchange will not adversely affect the recreational, transportation, or utility potential of the corridor and (b) the department has not entered into a lease of the property in accordance with RCW 79.08.281 (as recodified by this act).

Sec. 459. RCW 79.08.281 and 1984 c 174 s 9 are each amended to read as follows:

(1) The department (~~(of natural resources)~~) shall offer to lease, and shall subsequently lease if a reasonable offer is made, portions of the Milwaukee Road corridor under its control to the person who owns or controls the adjoining land for periods of up to ten years commencing with June 7, 1984. The lessee shall assume the responsibility for fire protection, weed control, and maintenance of water conveyance facilities and culverts. The leases shall follow standard department (~~(of natural resources)~~) leasing procedures, with the following exceptions:

- (a) The lessee may restrict public access pursuant to RCW 79.08.277 (as recodified by this act) and (~~(79.08.281(3))~~) subsection (3) of this section.
 - (b) The right of renewal shall be to the current lessee if the lessee still owns or controls the adjoining lands.
 - (c) If two persons own or control opposite sides of the corridor, each person shall be eligible for equal portions of the available property.
- (2) The department (~~(of natural resources)~~) has the authority to renew leases in existence on June 7, 1984.

(3) The leases shall contain a provision allowing the department (~~(of natural resources)~~) to issue permits to travel the corridor for recreational purposes.

(4) Unleased portions of the Milwaukee Road property under this section shall be managed by the department (~~(of natural resources)~~). On these unleased portions, the department solely shall be responsible for weed control, culvert, bridge, and other necessary maintenance and fire protection services. The department shall place hazard warning signs and close hazardous structures on unleased portions and shall regulate activities and restrict uses, including closing the corridor during seasons of high fire danger.

Sec. 460. RCW 79.08.283 and 1984 c 174 s 10 are each amended to read as follows:

The state, through the department (~~(of natural resources)~~), shall reserve the right to terminate a lease entered into pursuant to RCW 79.08.281 (as recodified by this act) or modify authorized uses of the corridor for future recreation, transportation, or utility uses. If the state elects to terminate the lease, the state shall provide the lessee with a minimum of six months' notice.

Sec. 461. RCW 79.12.015 and 1988 c 209 s 1 are each amended to read as follows:

The department (~~(of natural resources)~~) leases state lands and space on towers located on state lands to amateur radio operators for their repeater stations. These sites are necessary to maintain emergency communications for public safety and for use in disaster relief and search and rescue support.

The licensed amateur radio operators of the state provide thousands of hours of public communications service to the state every year. Their communication network spans the entire state, based in individual residences and linked across the state through a series of mountain-top repeater stations. The amateur radio operators install and maintain their radios and the electronic repeater stations at their own expense. The amateur radio operators who use their equipment to perform public services should not bear the sole responsibility for supporting the electronic repeater stations.

In recognition of the essential role performed by the amateur radio operators in emergency communications, the legislature intends to reduce the rental fee paid by the amateur radio operators while assuring the department (~~(of natural resources)~~) full market rental for the use of state-owned property.

Sec. 462. RCW 79.12.025 and 1995 c 105 s 1 are each amended to read as follows:

The department (~~(of natural resources)~~) shall determine the lease rate for amateur radio electronic repeater sites and units available for public service communication. For the amateur operator to qualify for a rent of one hundred dollars per year per site, the amateur operator shall do one of the following: (1) Register and remain in good standing with the state's radio amateur civil emergency services and amateur radio emergency services organizations, or (2) if an amateur group, sign a statement of public service developed by the department.

The legislature's biennial appropriations shall account for the estimated difference between the one hundred dollar per year, per site, per lessee paid by the qualified amateur operators and the fair market amateur rent, as established by the department.

The amateur radio regulatory authority approved by the federal communication commission shall assign the radio frequencies used by amateur

radio lessees. The department shall develop guidelines to determine which lessees are to receive reduced rental fees as moneys are available by legislative appropriation to pay a portion of the rent for electronic repeaters operated by amateur radio operators.

Sec. 463. RCW 79.12.035 and 1988 c 70 s 3 are each amended to read as follows:

(1) The department (~~(of natural resources)~~) is authorized to:

(a) Determine the total present account balance with interest of the interfund loans made by the resource management cost account to the forest development account in accordance with generally accepted accounting principles;

(b) Subject to approval of the board (~~(of natural resources)~~), effectuate a transfer of timber cutting rights on (~~(forest board purchase)~~) state forest lands acquired under RCW 76.12.020 (as recodified by this act) to the federal land grant trusts in such proportion that each trust receives full and fair market value for the interfund loans and is fully repaid or so much thereof as possible within distribution constraints described in subsection (2) of this section.

(2) After the effective date of the transfer authorized by subsection (1)(b) of this section and until the exercise of the cutting rights on the timber transferred has been fully satisfied, the distribution of revenue from timber management activities on (~~(forest board purchase)~~) state forest lands acquired under RCW 76.12.020 (as recodified by this act) on which cutting rights have been transferred shall be as follows:

(a) As determined by the board (~~(of natural resources)~~), an amount no greater than thirty-three and three-tenths percent to be distributed to the federal land grant trust accounts and resource management cost account as directed by RCW 79.64.040 and 79.64.050 (as recodified by this act);

(b) As determined by the board (~~(of natural resources)~~), an amount not less than sixteen and seven-tenths percent to the forest development account;

(c) Fifty percent to be distributed as provided in (~~(RCW 76.12.120(2))~~) section 207 of this act.

Sec. 464. RCW 79.12.055 and 1994 c 294 s 1 are each amended to read as follows:

The department (~~(of natural resources)~~) shall determine the fair market rental rate for leases to nonprofit television reception improvement districts. It is the intent of the legislature to appropriate general funds to pay a portion of the rent charged to nonprofit television reception improvement districts. It is the further intent of the legislature that such a lessee pay an annual lease rent of fifty percent of the fair market rental rate, as long as there is a general fund appropriation to compensate the trusts for the remainder of the fair market rental rate.

Sec. 465. RCW 79.12.095 and 1991 c 76 s 3 are each amended to read as follows:

In an effort to increase potential revenue to the geothermal account, the department (~~(of natural resources)~~) shall, by December 1, 1991, adopt rules providing guidelines and procedures for leasing state-owned land for the development of geothermal resources.

Sec. 466. RCW 79.12.570 and 1979 ex.s. c 109 s 20 are each amended to read as follows:

The ~~((commissioner of public lands))~~ department may lease state lands on a share crop basis. ~~((Share crop leases shall be on such terms and conditions and for such length of time, not to exceed ten years, as the commissioner may prescribe.))~~ Upon receipt of a written application to lease state lands, the ~~((commissioner))~~ department shall make such investigations as ~~((he shall))~~ it deems necessary ~~((and)).~~ If ~~((he))~~ the department finds that such a lease would be advantageous to the state, ~~((he))~~ it may proceed with the leasing of such lands on ~~((said basis))~~ such terms and conditions as other state lands are leased.

Sec. 467. RCW 79.12.600 and 2000 c 18 s 1 are each amended to read as follows:

When crops that are covered by a share crop lease are harvested, the lessee shall give written notice to the ~~((commissioner))~~ department that the crop is being harvested, and shall also give to the ~~((commissioner))~~ department the name and address of the warehouse or elevator to which such crops are sold or in which such crops will be stored. The lessee shall also serve on the owner of such warehouse or elevator a written copy of so much of the lease as shall show the percentage of division of the proceeds of such crop as between lessee and lessor. The owner of such warehouse or elevator shall make out a warehouse receipt, which receipt may be negotiable or nonnegotiable as directed by the state, showing the percentage of crops belonging to the state, and the respective gross and net amounts, grade, and location thereof, and shall deliver to the ~~((commissioner))~~ department the receipt for the state's percentage of such crops within ten days after the owner has received such instructions.

Sec. 468. RCW 79.12.610 and 1977 c 20 s 1 are each amended to read as follows:

The ~~((commissioner))~~ department shall sell the crops covered by the warehouse receipt required in RCW 79.12.600 (as recodified by this act) and may comply with the provisions of any federal act or the regulation of any federal agency with relation to the storage or disposition of ~~((said grain or peas))~~ the crop.

Sec. 469. RCW 79.12.620 and 1949 c 203 s 6 are each amended to read as follows:

The lessee under any share crop lease issued ((under the provisions of RCW 79.12.570 through 79.12.630)) by the department shall notify the ~~((commissioner of public lands))~~ department as soon as an estimated yield of the crop can be obtained~~((, such)).~~ The estimate ~~((to))~~ must be immediately submitted to the ~~((commissioner))~~ department, ~~((who))~~ which is hereby authorized to insure the crop from loss by fire or hail. The cost of such insurance shall be paid by the state and lessee on the same basis as the crop returns to which each is entitled.

Sec. 470. RCW 79.12.630 and 1949 c 203 s 7 are each amended to read as follows:

RCW 79.12.570 through 79.12.630 (as recodified by this act) shall not repeal the provisions of the general leasing statutes of the state of Washington and all of the general provisions of such statutes with reference to filing of applications, deposits required therewith, forfeiture of deposits, cancellation of leases for noncompliance and general procedures shall apply to all leases issued

under the provisions of RCW 79.12.570 through 79.12.630 (as recodified by this act).

Sec. 471. RCW 79.14.010 and 1967 c 163 s 6 are each amended to read as follows:

~~((Whenever used in))~~ As used in this chapter, ~~((unless the context otherwise requires, words and terms shall have the meaning attributed to them herein:~~

~~(+))~~ "public lands"~~((:))~~ means lands and areas belonging to or held in trust by the state, including tide and submerged lands of the Pacific Ocean or any arm thereof and lands of every kind and nature including mineral rights reserved to the state.

~~((2) "Commissioner": The commissioner of public lands of the state of Washington:))~~

Sec. 472. RCW 79.14.020 and 1986 c 34 s 1 are each amended to read as follows:

The ~~((commissioner))~~ department is authorized to lease public lands for the purpose of prospecting for, developing, and producing oil, gas, or other hydrocarbon substances. Each such lease is to be composed of not more than six hundred forty acres or an entire government surveyed section, except a lease on river bed, lake bed, tide and submerged lands which is to be composed of not more than one thousand nine hundred twenty acres. All leases shall contain such terms and conditions as may be prescribed by the rules ~~((and regulations))~~ adopted by the commissioner in accordance with the provisions of this chapter. Leases may be for an initial term of from five up to ten years and shall be extended for so long thereafter as lessee shall comply with one of the following conditions: (1) Prosecute development on the leased land with the due diligence of a prudent operator upon encountering oil, gas, or other hydrocarbon substances~~((:))~~; (2) produce any of said substances from the leased lands~~((:))~~; (3) engage in drilling, deepening, repairing, or redrilling any well thereon~~((:))~~; or (4) participate in a unit plan to which the commissioner has consented under RCW 78.52.450.

Sec. 473. RCW 79.14.030 and 1985 c 459 s 3 are each amended to read as follows:

The department ~~((of natural resources))~~ shall require as a prerequisite to the issuing of any lease a rental as set by the board ~~((of natural resources))~~ but not less than one dollar and twenty-five cents per acre or such prorated share of the rental per acre as the state's mineral rights ownership for the first year of such lease, payable in advance to the department ~~((of natural resources))~~ at the time the lease is awarded and a like rental annually in advance thereafter so long as such lease remains in force~~((:—PROVIDED, That such))~~. However, the rental shall cease at such time as royalty accrues to the state from production from such lease. Commencing with the lease year beginning on or after oil, gas, or other hydrocarbon substances are first produced in quantities deemed paying quantities by lessee on the land subject to such lease, lessee shall pay a minimum royalty as set by the board ~~((of natural resources))~~ but not less than five dollars per acre or fraction thereof or such prorated share of the rental per acre as the state's mineral rights ownership at the expiration of each year. Royalties payable by the lessee shall be the royalties from production as provided for in RCW 79.14.070 (as recodified by this act) or the minimum royalty provided herein,

whichever is greater(~~(: PROVIDED, That)~~). However, if such a lease is unitized, the minimum royalty shall be payable only on the leased acreage after production is obtained in such paying quantities from such lease.

Sec. 474. RCW 79.14.040 and 1955 c 131 s 4 are each amended to read as follows:

No lessee shall commence any operation upon lands covered by ~~((his))~~ the lease until such lessee has provided for compensation to owners of private rights therein according to law, or in lieu thereof, filed a surety bond with the ~~((commissioner))~~ department in an amount sufficient in the opinion of the commissioner to cover such compensation until the amount of compensation is determined by agreement, arbitration, or judicial decision and has provided for compensation to the state of Washington for damage to the surface rights of the state in accordance with the rules ~~((and regulations))~~ adopted by the ~~((commissioner))~~ department.

Sec. 475. RCW 79.14.080 and 1955 c 131 s 8 are each amended to read as follows:

Oil and gas leases shall not be issued on unleased lands which have been classified by the ~~((commissioner))~~ department as being within a known geologic structure of a producing oil or gas field, except as follows: Upon application of any person, the ~~((commissioner))~~ department shall lease in areas not exceeding six hundred forty acres, at public auction, any or all unleased lands within such geologic structure to the person offering the greatest cash bonus therefor at such auction. Notice of the offer of such lands for lease will be given by publication in a newspaper of general circulation in Olympia, Washington, and in such other publications as the ~~((commissioner))~~ department may authorize. The first publication shall be at least thirty days prior to the date of sale.

Sec. 476. RCW 79.14.090 and 1955 c 131 s 9 are each amended to read as follows:

The ~~((commissioner))~~ department is ~~((hereby))~~ authorized to cancel any lease issued as provided ~~((herein))~~ in this section for nonpayment of rentals or royalties or nonperformance by the lessee of any provision or requirement of the lease(~~(: PROVIDED, That)~~). However, before any such cancellation ~~((shall be))~~ is made, the ~~((commissioner))~~ department shall mail to the lessee by registered mail, addressed to the post office address of such lessee shown by the records of the ~~((office of the commissioner))~~ department, a notice of intention to cancel such lease specifying the default for which the lease is subject to cancellation. If lessee shall, within thirty days after the mailing of said notice to the lessee, commence and thereafter diligently and in good faith prosecute the remedying of the default specified in such notice, then no cancellation of the lease shall be entered by the ~~((commissioner))~~ department. Otherwise, the ~~((said))~~ cancellation shall be made and all rights of the lessee under the lease shall automatically terminate, except that lessee shall retain the right to continue its possession and operation of any well or wells in regard to which lessee is not in default(~~(: PROVIDED FURTHER, That)~~). Further, failure to pay rental and royalty required under leases within the time prescribed therein shall automatically and without notice work a forfeiture of such leases and of all rights thereunder. Upon the expiration, forfeiture, or surrender of any lease, no new lease covering the lands or any of them embraced by such expired,

forfeited, or surrendered lease, shall be issued for a period of ten days following the date of such expiration, forfeiture, or surrender. If more than one application for a lease covering such lands or any of them shall be made during such ten-day period the ~~((commissioner))~~ department shall issue a lease to such lands or any of them to the person offering the greatest cash bonus for such lease at a public auction to be held at the time and place and in the manner as the ~~((commissioner))~~ department shall ~~((by regulation prescribe))~~ adopt by rule.

Sec. 477. RCW 79.14.100 and 1955 c 131 s 10 are each amended to read as follows:

For the purpose of more properly conserving the natural resources of any oil or gas pool, field, or like area, lessees thereon and their representatives may unite with each other, or jointly or separately with others, in collectively adopting and operating under a cooperative ~~((or))~~ or unit plan of development or operation of such pool, field, or like area, or any part thereof, whenever determined and certified by ~~((commissioner))~~ the department to be necessary or advisable in the public interest. The ~~((commissioner))~~ department is ~~((thereunto))~~ authorized, in ~~((his))~~ its discretion, with the consent of the holders of leases involved, in order to conform with the terms and conditions of any such cooperative or unit plan to establish, alter, change, or revoke exploration, drilling, producing, rental, and royalty requirements of such leases with like consent on the part of the lessees, in connection with the institution and operation of any such cooperative or unit plan as ~~((he))~~ the department may deem necessary or proper to secure the proper protection of the public interest.

When separate tracts cannot be independently developed and operated in conformity with an established well spacing or development program, any lease or any portion thereof may be pooled with other lands, whether or not owned by the state of Washington under a communization or drilling agreement providing for an apportionment of production or royalties among the separate tracts of land comprising the drilling or spacing unit when determined by the ~~((commissioner))~~ department to be in the public interest, and operations or production pursuant to such an agreement shall be deemed to be operations or production as to each such lease committed thereto.

The term of any lease that has become the subject of any cooperative or unit plan of development or operation of a pool, field, or like area, which plan has the approval of the ~~((commissioner))~~ department, shall continue in force until the termination of such plan, and in the event such plan is terminated prior to the expiration of any such lease, the original term of such lease shall continue. Any lease under this chapter hereinafter committed to any such plan embracing lands that are in part within and in part outside of the area covered by any such plan, shall be segregated in separate leases as to the lands committed and the land not committed as of the effective date of unitization.

Sec. 478. RCW 79.14.110 and 1955 c 131 s 11 are each amended to read as follows:

The ~~((commissioner))~~ department is authorized to insert in any lease issued under the provisions of this chapter such terms as are customary and proper for the protection of the rights of the state and of the lessee and of the owners of the surface of the leased lands not in conflict with the provisions of this chapter.

Sec. 479. RCW 79.14.120 and 1955 c 131 s 12 are each amended to read as follows:

The ~~((commissioner))~~ department is required to ~~((prescribe))~~ adopt and publish, for the information of the public, all reasonable rules ~~((and regulations))~~ necessary for carrying out the provisions of this chapter. ~~((He))~~ The department may amend or rescind any rule ~~((or regulation promulgated by him))~~ adopted under the authority contained ~~((herein: PROVIDED, That))~~ in this section. However, no rule ~~((or regulation))~~ or amendment of the same or any order rescinding any rule ~~((or regulation))~~ shall become effective until after thirty days from the ~~((promulgation))~~ adoption of the same by publication in a newspaper of general circulation published at the state capitol and shall take effect and be in force at times specified therein. All rules ~~((and regulations))~~ of the ~~((commissioner))~~ department and all amendments or revocations of existing rules ~~((and regulations))~~ shall be recorded in an appropriate book or books, shall be adequately indexed, and shall be kept in the office of the ~~((commissioner))~~ department and shall constitute a public record. Such rules ~~((and regulations))~~ of the ~~((commissioner))~~ department shall be printed in pamphlet form and furnished to the public free of cost.

Sec. 480. RCW 79.14.130 and 1955 c 131 s 13 are each amended to read as follows:

Each lease issued under this chapter shall provide that without the approval of the ~~((commissioner))~~ department, no well shall be drilled on the lands demised thereby in such manner or at such location that the producing interval thereof shall be less than three hundred thirty feet from any of the outer boundaries of the demised lands, except that if the right to oil, gas, or other hydrocarbons underlying adjoining lands be vested in private ownership, such approval shall not be required.

Sec. 481. RCW 79.14.140 and 1955 c 131 s 14 are each amended to read as follows:

Any person granted a lease under the provisions of this chapter shall have a right of way over public lands, as provided by law, when necessary, for the drilling, recovering, saving, and marketing of oil, gas, or other hydrocarbons. Before any such right of way grant shall become effective, a written application for, and a plat showing the location of ~~((;))~~ such a right of way ~~((;))~~ and the land necessary for the well site and drilling operations, with reference to adjoining lands, shall be filed with the ~~((commissioner))~~ department. All timber on ~~((said))~~ the right of way and the land necessary for the drilling operation, shall be appraised by the commissioner and paid for in money by the person to whom the lease is granted.

Sec. 482. RCW 79.14.150 and 1955 c 131 s 15 are each amended to read as follows:

All sales of timber, as prescribed in this chapter, shall be made subject to the right, power, and authority of the ~~((commissioner))~~ department to ~~((prescribe))~~ adopt rules ~~((and regulations))~~ governing the manner of the removal of the merchantable timber upon any lands embraced within any lease with the view of protecting the same and other timber against destruction or injury by fire or from other causes. ~~((Such))~~ The rules ~~((or regulations))~~ shall be binding upon the

lessee, his or her successors in interest, and shall be enforced by the ((~~commissioner~~)) department.

Sec. 483. RCW 79.14.180 and 1955 c 131 s 18 are each amended to read as follows:

Nothing contained in this chapter shall be construed as requiring the ((~~commissioner~~)) department to offer any tract or tracts of land for lease; but the ((~~commissioner~~)) department shall have power to withhold any tract or tracts from leasing for oil, gas, or other hydrocarbons, if, in ((his)) its judgment, the best interest of the state will be served by so doing.

Sec. 484. RCW 79.14.190 and 1955 c 131 s 19 are each amended to read as follows:

The lessee shall pay to the ((~~commissioner~~)) department the market value at the well of the state's royalty share of oil and other hydrocarbons except gas produced and saved and delivered by lessee from the lease. In lieu of receiving payment for the market value of the state's royalty share of oil, the ((~~commissioner~~)) department may elect that such royalty share of oil be delivered in kind at the mouth of the wells into tanks provided by the ((~~commissioner~~)) department. Lessee shall pay to the ((~~commissioner~~)) department the state's royalty share of the sale price received by the lessee for gas produced and saved and sold from the lease. If such gas is not sold but is used by lessee for the manufacture of gasoline or other products, lessee shall pay to the ((~~commissioner~~)) department the market value of the state's royalty share of the residue gas and other products, less a proper allowance for extraction costs.

Sec. 485. RCW 79.14.200 and 1955 c 131 s 20 are each amended to read as follows:

All exploration permits issued by the ((~~commissioner~~)) department prior to June 9, 1955, which have not expired or been legally canceled for nonperformance by the permittees, are hereby declared to be valid and existing contracts with the state of Washington, according to their terms and provisions. The obligation of the state to conform to the terms and provisions of such permits is hereby recognized, and the ((~~commissioner~~)) department is directed to accept and recognize all such permits according to their express terms and provisions. No repeal or amendment made by this chapter shall affect any right acquired under the law as it existed prior to such repeal or amendment, and such right shall be governed by the law in effect at time of its acquisition. Any permit recognized and confirmed by this section may be relinquished to the state by the permittee, and a new lease or, if such permit contains more than six hundred forty acres, new leases in the form provided for in this chapter, shall be issued in lieu of same and without bonus therefor; but the new lease or leases so issued shall be as provided for in this chapter and governed by the applicable provisions of this chapter instead of by the law in effect prior thereto.

Sec. 486. RCW 79.14.210 and 1955 c 131 s 21 are each amended to read as follows:

Any oil or gas lease issued under the authority of this chapter may be assigned or subleased as to all or part of the acreage included therein, subject to final approval by the ((~~commissioner~~)) department, and as to either a divided or undivided interest therein to any person. Any assignment or sublease shall take

effect as of the first day of the lease month following the date of filing with the ~~((commissioner: PROVIDED, HOWEVER, That the commissioner may, in his))~~ department. However, at the department's discretion, it may disapprove an assignment of a separate zone or deposit under any lease or of a part of a legal subdivision. Upon approval of any assignment or sublease, the assignee or sublessee shall be bound by the terms of the lease to the same extent as if such assignee or sublessee were the original lessee, any conditions in the assignment or sublease to the contrary notwithstanding. Any partial assignment of any lease shall segregate the assigned and retained portions thereof, and upon approval of such assignment by the ~~((commissioner))~~ department, the assignor shall be released and discharged from all obligations thereafter accruing with respect to the assigned lands.

Sec. 487. RCW 79.14.220 and 1955 c 131 s 22 are each amended to read as follows:

Any applicant for a lease under this chapter, feeling ~~((himself))~~ aggrieved by any order ~~((or))~~, decision, or rule ~~((or regulation))~~ of the commissioner ~~((of public lands))~~, concerning the same, may appeal therefrom to the superior court of the county wherein such lands are situated, as provided by RCW 79.01.500 (as recodified by this act).

Sec. 488. RCW 79.28.010 and 1988 c 128 s 63 are each amended to read as follows:

For the purpose of obtaining from the United States indemnity or lieu lands for such lands granted to the state for common schools, educational, penal, reformatory, charitable, capitol building, or other purposes, as have been or may be lost to the state, or the title to or use or possession of which is claimed by the United States or by others claiming by, through or under the United States, by reason of any of the causes entitling the state to select other lands in lieu thereof, the inclusion of the same in any reservation by or under authority of the United States, or any other appropriation or disposition of the same by the United States, whether such lands are now surveyed or unsurveyed, the department ~~((of natural resources))~~, with the advice and approval of the attorney general, is authorized and empowered to enter into an agreement or agreements, on behalf of the state, with the proper officer or officers of the United States for the relinquishment of any such lands and the selection in lieu thereof, under the provisions of RCW 79.28.010 through 79.28.030 (as recodified by this act), of lands of the United States of equal area and value.

Sec.489. RCW 79.28.020 and 1988 c 128 s 64 are each amended to read as follows:

Upon the making of any such agreement, the board ~~((of natural resources))~~ shall be empowered and it shall be its duty to cause such examination and appraisal to be made as will determine the area and value, as nearly as may be, of the lands lost to the state, or the title to, use or possession of which is claimed by the United States by reason of the causes mentioned in RCW 79.28.010 (as recodified by this act), and proposed to be relinquished to the United States, and shall cause an examination and appraisal to be made of any lands which may be designated by the officers of the United States as subject to selection by the state in lieu of the lands aforesaid, to the end that the state shall obtain lands in lieu thereof of equal area and value.

Sec. 490. RCW 79.28.030 and 1913 c 102 s 3 are each amended to read as follows:

Whenever the title to any lands selected under the provisions of RCW 79.28.010 through 79.28.030 (as recodified by this act) shall become vested in the state of Washington by the acceptance and approval of the lists of lands so selected, or other proper action of the United States, the governor, on behalf of the state of Washington, shall execute and deliver to the United States a deed of conveyance of the lands of the state relinquished under the provisions of RCW 79.28.010 through 79.28.030 (as recodified by this act), which deed shall convey to and vest in the United States all the right, title and interest of the state of Washington therein.

Sec. 491. RCW 79.28.040 and 1923 c 85 s 1 are each amended to read as follows:

The (~~commissioner of public lands shall have~~) department has the power, and it (~~shall be his~~) is its duty, to adopt (~~and promulgate~~), from time to time, reasonable rules (~~and regulations~~) for the grazing of livestock on such tracts and areas of the indemnity or lieu public lands of the state contiguous to national forests and suitable for grazing purposes, as have been, or shall be, obtained from the United States under the provisions of RCW 79.28.010 (as recodified by this act).

Sec. 492. RCW 79.28.050 and 1983 c 3 s 202 are each amended to read as follows:

The (~~commissioner of public lands shall have the power to~~) department may issue permits for the grazing of livestock on the lands described in RCW 79.28.040 (as recodified by this act) in such manner and upon such terms, as near as may be, as permits are, or shall be, issued by the United States for the grazing of livestock on national forest (~~reserve~~) lands (~~and for such fees as he shall deem~~). The department may charge such fees as it deems adequate and advisable(~~, and shall have the power to enter into such arrangements as may be deemed advisable and to cooperate with the officers of the United States having charge of the grazing of livestock on forest reserve lands~~). The department may cooperate with the United States for the protection and preservation of the grazing areas on the state lands contiguous to national forests and for the administration of the provisions of RCW 79.28.040 and 79.28.050 (as recodified by this act).

Sec. 493. RCW 79.28.070 and 1963 c 99 s 1 are each amended to read as follows:

The department (~~of natural resources~~) is hereby authorized on behalf of the state of Washington to enter into cooperative agreements with any person as defined in RCW 1.16.080 for the improvement of the state's grazing ranges by the clearing of debris, maintenance of trails and water holes, and other requirements for the general improvement of the grazing ranges.

Sec. 494. RCW 79.28.080 and 1985 c 197 s 3 are each amended to read as follows:

In order to encourage the improvement of grazing ranges by holders of grazing permits, the department (~~of natural resources~~) shall consider (1) extension of grazing permit periods to a maximum of ten years(,); and (2)

reduction of grazing fees, in situations where the permittee contributes or agrees to contribute to the improvement of the range, financially, by labor, or otherwise.

Sec. 495. RCW 79.36.260 and 1927 c 312 s 4 are each amended to read as follows:

Whenever any person, firm, or corporation shall hereafter purchase, lease, or acquire any state lands, or any easement or interest therein, or any timber, stone, mineral, or other natural products thereon, or the manufactured products thereof the purchase, lease, or grant shall be subject to the condition or reservation that such person, firm, or corporation, or their successors in interest, shall, whenever any of the timber, stone, mineral, or other natural products on said lands or the manufactured products thereof are removed, by any logging and/or lumbering railroad, private railroad, skid road, flume, canal, watercourse, or other easement, owned, leased, or operated by such person, firm, or corporation, or their successors in interest, accord to any other person, firm, or corporation, or their successors in interest, having the right to remove any timber, stone, mineral, or other natural products or the manufactured products thereof from any other lands, owned or formerly owned by the state, proper and reasonable facilities and service, including physical connection therewith, for the transportation and moving of such other timber, stone, mineral, and other natural products, and the manufactured products thereof and all necessary machinery, supplies, or materials to be used in transporting, cutting(~~(+)~~), manufacturing, mining, or quarrying any or all of such products under reasonable rules (~~and regulations~~) and upon payment of just and reasonable charges therefor; and that any conveyance, lease, or mortgage of such logging and/or lumbering railroad, private railroad, skid road, flume, canal, watercourse, or other easement, shall be subject to the right of the person, firm, or corporation, or their successors in interest, having the right to remove timber, stone, mineral, or other natural products or the manufactured products thereof from such other state lands, to be accorded such proper and reasonable facilities and service, including physical connection therewith, for the transportation and moving of such other timber, stone, mineral, and other natural products and the manufactured products thereof and all necessary machinery, supplies, or materials to be used in transporting, cutting, manufacturing, mining, or quarrying any or all of such products under reasonable rules(~~(, regulations)~~) and upon payment of just and reasonable charges therefor; and such purchase, lease, or grant from the state shall also be subject to the condition or reservation that whenever any of the timber, stone, mineral, or other natural products on such lands or the manufactured products thereof are about to be removed, by means of any logging and/or lumbering railroad, private railroad, skid road, flume, canal, watercourse, or other easement, not owned, controlled, or operated by the person, firm, or corporation owning or having the right to remove, and about to remove such timber, stone, mineral, or other natural products or the manufactured products thereof shall exact and require from the owners and operators of such logging and/or lumbering railroad, private railroad, skid road, flume, canal, watercourse, or other easement, which shall be binding upon the successors in interest of such owners and operators, an agreement and promise, as a part of the contract for removal, and by virtue of RCW 79.36.230 through 79.36.290 (as recodified by this act) there shall be deemed to be a part of any such express or implied contract for removal, an agreement, and promise that such owners and operators,

and their successors in interest, shall accord to any person, firm, or corporation and their successors in interest, having the right to remove any timber, stone, mineral, or other natural products or the manufactured products thereof from any lands, owned, or formerly owned by the state, proper and reasonable facilities and service, including physical connection therewith, for the transportation and moving of such timber, stone, mineral, and other natural products and the manufactured products thereof and all necessary machinery, supplies, or materials to be used in transporting, cutting, manufacturing, mining, or quarrying any or all of such products and under reasonable rules (~~and regulations~~) and upon payment of just and reasonable charges therefor.

Sec. 496. RCW 79.36.270 and 1983 c 4 s 8 are each amended to read as follows:

Should the owner or operator of any logging and/or lumbering railroad, private railroad, skid road, flume, canal, watercourse, or other easement operating over lands hereafter acquired from the state, as in RCW 79.36.230 through 79.36.290 (as recodified by this act) set out, fail to agree with the state or with any subsequent grantee or successor in interest thereof as to the reasonable and proper rules (~~regulations~~) and charges concerning the transportation of timber, stone, mineral, or other natural products of the land, or the manufactured products thereof and all necessary machinery, supplies, or materials to be used in transporting, cutting, manufacturing, mining, or quarrying any or all of such products for carrying and transporting such products or for the use of the railroad, skid road, flume, canal, watercourse, or other easement in transporting such products, the state or such person, firm, or corporation owning and desiring to ship such products may apply to the utilities and transportation commission and have the reasonableness of the rules (~~regulations~~) and charges inquired into and it shall be the duty of the utilities and transportation commission to inquire into the same in the same manner, and it is hereby given the same power and authority to investigate the same as it is now authorized to investigate and inquire into the rules (~~and regulations~~) and charges made by railroads and is authorized and empowered to make such order as it would make in an inquiry against a railroad, and in case such logging and/or lumbering railroad, private railroad, skid road, flume, canal, watercourse, or other easement is not then in use, may (~~make~~) adopt such reasonable, proper, and just rules (~~and regulations~~) concerning the use thereof for the purposes aforesaid as may be just and proper and such order shall have the same force and effect and shall be binding upon the parties to such hearing as though such hearing and order was made affecting a railroad.

Sec. 497. RCW 79.36.280 and 1983 c 4 s 9 are each amended to read as follows:

In case any person, firm, or corporation owning and/or operating any logging and/or lumbering railroad, private railroad, skid road, flume, canal, watercourse, or other easement subject to the provisions of RCW 79.36.230 through 79.36.290 (as recodified by this act) shall fail to comply with any rule (~~regulation~~) or order made by the utilities and transportation commission, after an inquiry as provided for in RCW 79.36.270 (as recodified by this act), each person, firm, or corporation shall be subject to a penalty not exceeding one thousand dollars, and in addition thereto, the right of way over state lands

theretofore granted to such person, firm, or corporation, and all improvements and structures on such right of way and connected therewith, shall revert to the state of Washington, and may be recovered by it in an action instituted in any court of competent jurisdiction, unless such state lands have been sold.

Sec. 498. RCW 79.36.290 and 1988 c 128 s 65 are each amended to read as follows:

Any person, firm, or corporation shall have a right of way over public lands, subject to the provisions of RCW 79.36.230 through 79.36.290 (as recodified by this act), when necessary, for the purpose of hauling or removing timber, stone, mineral, or other natural products or the manufactured products thereof of the land. Before, however, any such right of way grant shall become effective, a written application for and a plat showing the location of such right of way, with reference to the adjoining lands, shall be filed with the department ~~((of natural resources))~~, and all timber on ~~((said))~~ the right of way, together with the damages to ~~((said))~~ the land, shall be appraised and paid for in cash by the person, firm, or corporation applying for such right of way. The department ~~((of natural resources))~~ shall then cause to be issued in duplicate to such person, firm, or corporation a right of way certificate setting forth the conditions and terms upon which ~~((such))~~ the right of way is granted. Whenever ~~((said))~~ the right of way shall cease to be used, for a period of two years, for the purpose for which it was granted, it shall be deemed forfeited, and ~~((said))~~ the right of way certificate shall contain such a provision~~((:—PROVIDED, That))~~. However, any right of way for logging purposes heretofore issued which has never been used, or has ceased to be used, for a period of two years, for the purpose of which it was granted, shall be deemed forfeited and shall be canceled upon the records of the department. One copy of each certificate shall be filed with the department and one copy delivered to the applicant. The forfeiture of ~~((said))~~ the right of way, as herein provided, shall be rendered effective by the mailing of notice of such a forfeiture to the grantee thereof to his or her last known post office address and by stamping the copy of ~~((said))~~ the certificate in the department canceled and the date of such cancellation. For the issuance of such a certificate the same fee shall be charged as provided in the case of certificates for railroad rights of way.

Sec. 499. RCW 79.38.010 and 1961 c 44 s 1 are each amended to read as follows:

In addition to any authority otherwise granted by law, the department ~~((of natural resources))~~ shall have the authority to acquire lands, interests in lands, and other property for the purpose of affording access by road to public lands or state forest lands from any public highway.

Sec. 500. RCW 79.38.030 and 1981 c 204 s 2 are each amended to read as follows:

Purchasers of valuable materials from public lands or state forest lands may use access roads or public roads for the removal of such materials where the rights acquired by the state will permit, but use shall be subject to the right of the department ~~((of natural resources))~~:

(1) To impose reasonable terms for the use, construction, reconstruction, maintenance, and repair of such access roads; and

(2) To impose reasonable charges for the use of such access roads or public roads which have been constructed or reconstructed through funding by the department ((of natural resources)).

Sec. 501. RCW 79.38.040 and 1961 c 44 s 4 are each amended to read as follows:

Whenever the department ((of natural resources)) finds that it is for the best interest of the state and where the rights acquired by the state will permit, the department may grant permits for the use of access roads to any person. Any permit issued under the authority of this section shall be subject to reasonable regulation by the department. Such regulation shall include, but is not limited to, the following matters:

- (1) Requirements for construction, reconstruction, maintenance, and repair;
- (2) Limitations as to extent and time of use;
- (3) Provision for revocation at the discretion of the department; and
- (4) Charges for use.

Sec. 502. RCW 79.38.050 and 1981 c 204 s 3 are each amended to read as follows:

The department ((of natural resources)) shall create, maintain, and administer a revolving fund, to be known as the access road revolving fund in which shall be deposited all moneys received by it from users of access roads as payment for costs incurred or to be incurred in maintaining, repairing, and reconstructing access roads, or public roads used to provide access to public lands or state forest lands. The department may use moneys in the fund for the purposes for which they were obtained without appropriation by the legislature.

Sec. 503. RCW 79.38.060 and 1981 c 204 s 4 are each amended to read as follows:

All moneys received by the department ((of natural resources)) from users of access roads ((which)) that are not deposited in the access road revolving fund shall be paid as follows:

- (1) To reimburse the state fund or account from which expenditures have been made for the acquisition, construction, or improvement of the access road or public road, and upon full reimbursement, then
- (2) To the funds or accounts for which the public lands and state forest lands, to which access is provided, are pledged by law or constitutional provision, in which case the department ((of natural resources)) shall make an equitable apportionment between funds and accounts so that no fund or account shall benefit at the expense of another.

Sec. 504. RCW 79.40.070 and 1988 c 128 s 66 are each amended to read as follows:

It shall be unlawful for any person to enter upon any of the state lands, including all land under the jurisdiction of the department ((of natural resources)), or upon any private land without the permission of the owner thereof and to cut, break, or remove therefrom for commercial purposes any evergreen trees, commonly known as Christmas trees, including fir, hemlock, spruce, and pine trees. Any person cutting, breaking, or removing or causing to be cut, broken, or removed, or who cuts down, cuts off, breaks, tops, or destroys any of such Christmas trees shall be liable to the state, or to the private owner thereof, for payment for such trees at a price of one dollar each if payment is

made immediately upon demand. Should it be necessary to institute civil action to recover the value of such trees, the state in the case of state lands, or the owner in case of private lands, may exact treble damages on the basis of three dollars per tree for each tree so cut or removed.

Sec. 505. RCW 79.40.080 and 1937 c 87 s 2 are each amended to read as follows:

RCW 79.40.070 (as recodified by this act) is not intended to repeal or modify any of the provisions of existing statutes providing penalties for the unlawful removal of timber from state lands.

Sec.506. RCW 79.44.020 and 1963 c 20 s 3 are each amended to read as follows:

In all local improvement assessment districts in any assessing district in this state, property in such district, held or owned by the state shall be assessed and charged for its proportion of the cost of such local improvements in the same manner as other property in such district, it being the intention of this chapter that the state shall bear its just and equitable proportion of the cost of local improvements specially benefiting ((state)) lands(~~(- PROVIDED, That)) of the state. However,~~ none of the provisions of this chapter shall have the effect, or be construed to have the effect, to alter or modify in any particular any existing lease of any lands or property owned by the state, or release or discharge any lessee of any such lands or property from any of the obligations, covenants, or conditions of the contract under which any such lands or property are leased or held by any such lessee.

Sec. 507. RCW 79.44.030 and 1919 c 164 s 3 are each amended to read as follows:

Where ((state)) lands of the state are under lease, the proportionate amounts to be assessed against the leasehold interest, and the fee simple interest of the state, shall be fixed with reference to the life of the improvement and the period for which ((said)) the lease has yet to run.

Sec. 508. RCW 79.44.060 and 1979 c 151 s 179 are each amended to read as follows:

When the chief administrative officer of an agency of state government is satisfied that an assessing district has complied with all the conditions precedent to the levy of assessments for district purposes, pursuant to this chapter against ((state)) lands occupied, used, or under the jurisdiction of ((his)) the officer's agency, he or she shall pay them, together with any interest thereon from any funds specifically appropriated to ((his)) the agency therefor or from any funds of ((his)) the agency which under existing law have been or are required to be expended to pay assessments on a current basis. In all other cases, the chief administrative officer shall certify to the director of financial management that the assessment is one properly chargeable to the state. The director of financial management shall pay such assessments from funds available or appropriated (~~(to him))~~ for this purpose.

Except as provided in RCW 79.44.190 no lands of the state shall be subject to a lien for unpaid assessments, nor shall the interest of the state in any land be sold for unpaid assessments where assessment liens attached to the lands prior to state ownership.

Sec. 509. RCW 79.44.120 and 1937 c 80 s 1 are each amended to read as follows:

Whenever any state school, granted, tide, or other public lands of the state shall have been charged with local improvement assessments under any local improvement assessment district in any incorporated city, town, irrigation, diking, drainage, port, weed, or pest district, or any other district now authorized by law to levy assessments against ~~((state))~~ lands of the state, where such assessments are required under existing statutes to be returned to the fund of the state treasury from which ~~((said))~~ the assessments were originally paid, the ~~((commissioner of public lands))~~ department may, and ~~((he))~~ is hereby authorized, to sell such lands for their appraised valuation without regard to such assessments, anything to the contrary in the existing statutes notwithstanding(~~(= PROVIDED, That))~~). However, nothing ((herein contained)) in this section shall be construed to alter in any way any existing statute providing for the method of procedure in levying assessments against ((state)) lands of the state in any of such local improvement assessment districts.

Sec. 510. RCW 79.60.010 and 1988 c 128 s 67 are each amended to read as follows:

The department ~~((of natural resources))~~ with regard to state forest ~~((board))~~ lands and state ~~((granted))~~ lands is hereby authorized to enter into cooperative agreements with the United States of America, Indian tribes, and private owners of timber land providing for coordinated forest management, including time, rate, and method of cutting timber and method of silvicultural practice on a sustained yield unit.

Sec. 511. RCW 79.60.020 and 1988 c 128 s 68 are each amended to read as follows:

The department ~~((of natural resources))~~ is hereby authorized and directed to determine, define, and declare informally the establishment of a sustained yield unit, comprising the land area to be covered by any such cooperative agreement and include therein such other lands as may be later acquired by the department and included under the cooperative agreement.

Sec. 512. RCW 79.60.030 and 1988 c 128 s 69 are each amended to read as follows:

The ~~((state))~~ department shall agree that the cutting from combined national forest lands, state forest lands, and state lands will be limited to the sustained yield capacity of these lands in the management unit as determined by the contracting parties and approved by ~~((the commissioner of public lands for state granted lands and))~~ the board ~~((of natural resources))~~ for state forest ~~((board))~~ lands and by the department for state lands. Cooperation with the private contracting party or parties shall be contingent on limitation of production to a specified amount as determined by the contracting parties and approved by ~~((the commissioner of public lands for state granted lands and))~~ the board ~~((of natural resources))~~ for state forest ~~((board))~~ lands and by the department for state lands and shall comply with the other conditions and requirements of such cooperative agreement.

Sec. 513. RCW 79.60.040 and 1988 c 128 s 70 are each amended to read as follows:

The private contracting party or parties shall enjoy the right of easement over state forest (~~(board)~~) lands and state (~~(granted)~~) lands included under said cooperative agreement for railway, road, and other uses necessary to the carrying out of the agreement. This easement shall be only for the life of the cooperative agreement and shall be granted without charge with the provision that payment shall be made for all merchantable timber cut, removed, or damaged in the use of such easement, payment to be based on the contract stumpage price for timber of like value and species and to be made within thirty days from date of cutting, removal, and/or damage of such timber and appraisal thereof by the department (~~(of natural resources)~~).

Sec. 514. RCW 79.60.050 and 1988 c 128 s 71 are each amended to read as follows:

During the period when any such cooperative agreement is in effect, the timber on the state forest lands and state lands which the department (~~(of natural resources)~~) determines shall be included in the sustained yield unit may, from time to time, be sold at not less than its appraised value as approved by the (~~(commissioner of public lands)~~) department for state (~~(granted)~~) lands and the board (~~(of natural resources)~~) for state forest (~~(board)~~) lands, due consideration being given to existing forest conditions on all lands included in the cooperative management unit and such sales may be made in the discretion of the department and the contracting party or parties in the cooperative sustained yield agreement. These sale agreements shall contain such provisions as are necessary to effectually permit the department to carry out the purpose of this section and in other ways afford adequate protection to the public interests involved.

Sec. 515. RCW 79.60.060 and 1988 c 128 s 72 are each amended to read as follows:

The sale of timber upon state forest (~~(board)~~) land and state (~~(granted)~~) land within such sustained yield unit or units shall be made for not less than the appraised value thereof as heretofore provided for the sale of timber on state lands (~~(- PROVIDED, That,)~~). However, if in the judgment of the department, it is to the best interests of the state to do so, (~~(said)~~) the timber or any such sustained yield unit or units may be sold on a stumpage or scale basis for a price per thousand not less than the appraised value thereof. The department shall reserve the right to reject any and all bids if the intent of this chapter will not be carried out. Permanency of local communities and industries, prospects of fulfillment of contract requirements, and financial position of the bidder shall all be factors included in this decision.

Sec. 516. RCW 79.60.070 and 1939 c 130 s 6 are each amended to read as follows:

A written contract shall be entered into with the successful bidder which shall fix the time when logging operations shall be commenced and concluded and require monthly payments for timber removed as soon as scale sheets have been tabulated and the amount of timber removed during the month determined, or require payments monthly in advance at the discretion of the board or the (~~(commissioner)~~) department. The board and the (~~(commissioner)~~) department shall designate the price per thousand to be paid for each species of timber and shall provide for supervision of logging operations, the methods of scaling and report, and shall require the purchaser to comply with all laws of the state of

Washington with respect to fire protection and logging operation of the timber purchased; and shall contain such other provisions as may be deemed advisable.

Sec. 517. RCW 79.60.080 and 1988 c 128 s 73 are each amended to read as follows:

No transfer or assignment by the purchaser shall be valid unless the transferee or assignee is acceptable to the department (~~(of natural resources)~~) and the transfer or assignment approved by it in writing.

Sec. 518. RCW 79.60.090 and 1988 c 128 s 74 are each amended to read as follows:

The purchaser shall, at the time of executing the contract, deliver a performance bond or sureties acceptable in regard to terms and amount to the department (~~(of natural resources)~~), but such performance bond or sureties shall not exceed ten percent of the estimated value of the timber purchased computed at the stumpage price and at no time shall exceed a total of fifty thousand dollars. The purchaser shall also be required to make a cash deposit equal to twenty percent of the estimated value of the timber purchased, computed at the stumpage bid. Upon failure of the purchaser to comply with the terms of the contract, the performance bond or sureties may be forfeited to the state upon order of the department (~~(of natural resources)~~).

At no time shall the amount due the state for timber actually cut and removed exceed the amount of the deposit as (~~hereinabove~~) set forth in this section. The amount of the deposit shall be returned to the purchaser upon completion and full compliance with the contract by the purchaser, or it may, at the discretion of the purchaser, be applied on final payment on the contract.

Sec. 519. RCW 79.64.010 and 1967 ex.s. c 63 s 1 are each amended to read as follows:

~~((Unless a different meaning is plainly required by the context, the following words and phrases))~~ As (~~(hereinafter)~~) used in this chapter, (~~(shall have the following meanings:~~

(1) ~~"Account" means the resource management cost account in the state general fund.~~

(2) ~~"Department" means the department of natural resources.~~

(3) ~~"Board" means the board of natural resources of the department of natural resources.~~

(4)) "rule" means rule as (~~(the same)~~) that term is defined by RCW 34.05.010.

~~((5) The definitions set forth in RCW 79.01.004 shall be applicable.))~~

Sec. 520. RCW 79.64.020 and 1993 c 460 s 1 are each amended to read as follows:

A resource management cost account in the state treasury is (~~hereby~~) created to be used solely for the purpose of defraying the costs and expenses necessarily incurred by the department in managing and administering public lands and the making and administering of leases, sales, contracts, licenses, permits, easements, and rights of way as authorized under the provisions of this title. Appropriations from the resource management cost account to the department shall be expended for no other purposes. Funds in the resource management cost account may be appropriated or transferred by the legislature for the benefit of all of the trusts from which the funds were derived.

Sec. 521. RCW 79.64.030 and 2001 c 250 s 15 are each amended to read as follows:

Funds in the resource management cost account from the moneys received from leases, sales, contracts, licenses, permits, easements, and rights of way issued by the department and affecting school lands, university lands, scientific school lands, normal school lands, capitol building lands, or institutional lands shall be pooled and expended by the department solely for the purpose of defraying the costs and expenses necessarily incurred in managing and administering all of the trust lands enumerated in this section. Such funds may be used for similar costs and expenses in managing and administering other lands managed by the department provided that such expenditures that have been or may be made on such other lands shall be repaid to the resource management cost account together with interest at a rate determined by the board (~~of natural resources~~)).

Costs and expenses necessarily incurred in managing and administering agricultural college lands shall not be deducted from proceeds received from the sale of such lands or from the sale of resources that are part of the lands. Costs and expenses incurred in managing and administering agricultural college trust lands shall be funded by appropriation under RCW 79.64.090 (as recodified by this act).

An accounting shall be made annually of the accrued expenditures from the pooled trust funds in the account. In the event the accounting determines that expenditures have been made from moneys received from trust lands for the benefit of other lands, such expenditure shall be considered a debt and an encumbrance against the property benefitted, including (~~property held under chapter 76.12 RCW~~) state forest lands. The results of the accounting shall be reported to the legislature at the next regular session. The state treasurer is authorized, upon request of the department, to transfer funds between the forest development account and the resource management cost account solely for purpose of repaying loans pursuant to this section.

Sec. 522. RCW 79.64.040 and 2001 c 250 s 16 are each amended to read as follows:

The board shall determine the amount deemed necessary in order to achieve the purposes of this chapter and shall provide by rule for the deduction of this amount from the moneys received from all leases, sales, contracts, licenses, permits, easements, and rights of way issued by the department and affecting public lands, provided that no deduction shall be made from the proceeds from agricultural college lands. Moneys received as deposits from successful bidders, advance payments, and security under sections 334 and 347 of this act and RCW ((79.01.132 and)) 79.01.204 (as recodified by this act) prior to December 1, 1981, which have not been subjected to deduction under this section are not subject to deduction under this section. The deductions authorized under this section shall in no event exceed twenty-five percent of the moneys received by the department in connection with any one transaction pertaining to public lands other than second class tide and shore lands and the beds of navigable waters, and fifty percent of the moneys received by the department pertaining to second class tide and shore lands and the beds of navigable waters.

Sec. 523. RCW 79.64.050 and 2001 c 250 s 17 are each amended to read as follows:

All deductions from moneys received made in accordance with RCW 79.64.040 (as recodified by this act) shall be paid into the resource management cost account and the balance shall be paid into the state treasury to the credit of the fund otherwise entitled to the proceeds.

Sec. 524. RCW 79.64.090 and 1999 c 279 s 3 are each amended to read as follows:

The agricultural college trust management account is created in the state treasury. To ~~((the))~~ this account shall be deposited such funds as the legislature directs or appropriates. Moneys in the agricultural college trust management account may be spent only after appropriation. Expenditures from ~~((the))~~ this account may be used only for the costs of managing the assets of the agricultural school trust.

Sec. 525. RCW 79.66.010 and 1984 c 222 s 1 are each amended to read as follows:

The legislature finds that from time to time it may be desirable for the department ~~((of natural resources))~~ to sell state lands which have low potential for natural resource management or low income-generating potential or which, because of geographic location or other factors, are inefficient for the department to manage. However, it is also important to acquire lands for long-term management to replace those sold so that the publicly owned land base will not be depleted and the publicly owned forest land base will not be reduced. The purpose of this chapter is to provide a means to facilitate such sales and purchases so that the diversity of public uses on the trust lands will be maintained. In making the determinations, the department shall comply with local land use plans and applicable growth management principles.

Sec. 526. RCW 79.66.020 and 1984 c 222 s 2 are each amended to read as follows:

The department ~~((of natural resources))~~, with the approval of the board ~~((of natural resources))~~, may purchase property at fair market value to be held in a land bank, which is hereby created within the department. Property so purchased shall be property which would be desirable for addition to the public lands of the state because of the potential for natural resource or income production of the property. The total acreage held in the land bank shall not exceed one thousand five hundred acres.

Sec. 527. RCW 79.66.030 and 1984 c 222 s 3 are each amended to read as follows:

The department ~~((of natural resources))~~, with the approval of the board ~~((of natural resources))~~, may:

(1) Exchange property held in the land bank for any other public lands of equal value administered by the department ~~((of natural resources))~~, including any lands held in trust.

(2) Exchange property held in the land bank for property of equal or greater value which is owned publicly or privately, and which has greater potential for natural resource or income production or which could be more efficiently managed by the department, however, no power of eminent domain is hereby granted to the department; and

(3) Sell property held in the land bank in the manner provided by law for the sale of state lands without any requirement of platting and to use the proceeds to acquire property for the land bank which has greater potential for natural resource or income production or which would be more efficiently managed by the department.

Sec. 528. RCW 79.66.040 and 1984 c 222 s 4 are each amended to read as follows:

The department (~~(of natural resources)~~) may manage the property held in the land bank as provided in RCW 79.01.612(~~(-PROVIDED, That such)~~) (as recodified by this act). However, the properties or interest in such properties shall not be withdrawn, exchanged, transferred, or sold without first obtaining payment of the fair market value of the property or interest therein or obtaining property of equal value in exchange.

Sec. 529. RCW 79.66.050 and 1984 c 222 s 5 are each amended to read as follows:

The legislature may authorize appropriation of funds from the forest development account or the resource management cost account for the purposes of this chapter. Income from the sale or management of property in the land bank shall be returned as a recovered expense to the forest development account or the resource management cost account and may be used to acquire property under RCW 79.66.020 (as recodified by this act).

Sec. 530. RCW 79.66.060 and 1984 c 222 s 6 are each amended to read as follows:

The department (~~(of natural resources)~~) shall be reimbursed for actual costs and expenses incurred in managing and administering the land bank program under this chapter from the forest development account or the resource management cost account in an amount not to exceed the limits provided in RCW 79.64.040 (as recodified by this act). Reimbursement from proceeds of sales shall be limited to marketing costs provided in RCW 79.01.612 (as recodified by this act).

Sec. 531. RCW 79.66.080 and 1994 c 264 s 60 are each amended to read as follows:

Periodically, at intervals to be determined by the board (~~(of natural resources)~~), the department (~~(of natural resources)~~) shall identify trust lands which are expected to convert to commercial, residential, or industrial uses within ten years. The department shall adhere to existing local comprehensive plans, zoning classifications, and duly adopted local policies when making this identification and determining the fair market value of the property.

The department shall hold a public hearing on the proposal in the county where the state land is located. At least fifteen days but not more than thirty days before the hearing, the department shall publish a public notice of reasonable size in display advertising form, setting forth the date, time, and place of the hearing, at least once in one or more daily newspapers of general circulation in the county and at least once in one or more weekly newspapers circulated in the area where the trust land is located. At the same time that the published notice is given, the department shall give written notice of the hearings to the departments of fish and wildlife and general administration, to the parks and recreation commission, and to the county, city, or town in which

the property is situated. The department shall disseminate a news release pertaining to the hearing among printed and electronic media in the area where the trust land is located. The public notice and news release also shall identify trust lands in the area which are expected to convert to commercial, residential, or industrial uses within ten years.

A summary of the testimony presented at the hearings shall be prepared for the board's consideration. The board (~~(of natural resources)~~) shall designate trust lands which are expected to convert to commercial, residential, or industrial uses as urban land. Descriptions of lands designated by the board shall be made available to the county and city or town in which the land is situated and for public inspection and copying at the department's administrative office in Olympia, Washington and at each area office.

The hearing and notice requirements of this section apply to those trust lands which have been identified by the department prior to July 1, 1984, as being expected to convert to commercial, residential, or industrial uses within the next ten years, and which have not been sold or exchanged prior to July 1, 1984.

Sec. 532. RCW 79.66.090 and 1993 c 265 s 1 are each amended to read as follows:

If the department (~~(of natural resources)~~) determines to exchange urban land for land bank land, public agencies defined in RCW 79.01.009 (as recodified by this act) that may benefit from owning the property shall be notified in writing of the determination. The public agencies have sixty days from the date of notice by the department to submit an application to purchase the land and shall be afforded an opportunity of up to one year, as determined by the board (~~(of natural resources)~~), to purchase the land from the land bank at fair market value directly without public auction as authorized under RCW 79.01.009 (as recodified by this act). The board (~~(of natural resources)~~), if it deems it in the best interest of the state, may extend the period under terms and conditions as the board determines. If competing applications are received from governmental entities, the board shall select the application which results in the highest monetary value.

Sec. 533. RCW 79.66.100 and 1984 c 222 s 10 are each amended to read as follows:

Lands purchased by the department (~~(of natural resources)~~) for commercial, industrial, or residential use shall be subject to payment of in-lieu of real property tax for the period in which they are held in the land bank. The in-lieu payment shall be equal to the property taxes which would otherwise be paid if the land remained subject to the tax. Payment shall be made at the end of the calendar year to the county in which the land is located. If a parcel is not held in the land bank for the entire year, the in-lieu payment shall be reduced proportionately to reflect only that period of time in which the land was held in the land bank. The county treasurer shall distribute the in-lieu payments proportionately in accordance with RCW 84.56.230 as though such moneys were receipts from ad valorem property taxes.

Sec. 534. RCW 79.68.010 and 1971 ex.s. c 234 s 1 are each amended to read as follows:

The legislature hereby directs that a multiple use concept be utilized by the department (~~(of natural resources)~~) in the management and administration of state-owned lands under the jurisdiction of the department where such a concept is in the best interests of the state and the general welfare of the citizens thereof, and is consistent with the applicable trust provisions of the various lands involved.

Sec. 535. RCW 79.68.020 and 1971 ex.s. c 234 s 2 are each amended to read as follows:

"Multiple use" as used in RCW 79.01.128 (as recodified by this act), 79.44.003, and this chapter (as recodified by this act) shall mean the management and administration of state-owned lands under the jurisdiction of the department (~~(of natural resources)~~) to provide for several uses simultaneously on a single tract and/or planned rotation of one or more uses on and between specific portions of the total ownership consistent with the provisions of RCW 79.68.010 (as recodified by this act).

Sec. 536. RCW 79.68.030 and 1971 ex.s. c 234 s 3 are each amended to read as follows:

"Sustained yield plans" as used in RCW 79.01.128 (as recodified by this act), 79.44.003, and this chapter (as recodified by this act) shall mean management of the forest to provide harvesting on a continuing basis without major prolonged curtailment or cessation of harvest.

Sec. 537. RCW 79.68.035 and 1987 c 159 s 2 are each amended to read as follows:

Unless the context clearly requires otherwise the definitions in this section apply throughout (~~(this chapter)~~) RCW 79.68.030, 79.68.040, and 79.68.045 (as recodified by this act).

(1) "Arrearage" means the summation of the annual sustainable harvest timber volume since July 1, 1979, less the sum of state timber sales contract default volume and the state timber sales volume deficit since July 1, 1979.

(2) "Default" means the volume of timber remaining when a contractor fails to meet the terms of the sales contract on the completion date of the contract or any extension thereof and timber returned to the state under RCW 79.01.1335.

(3) "Deficit" means the summation of the difference between the department's annual planned sales program volume and the actual timber volume sold.

(4) "Planning decade" means the ten-year period covered in the forest land management plan adopted by the board (~~(of natural resources)~~).

(5) "Sustainable harvest level" means the volume of timber scheduled for sale from state-owned lands during a planning decade as calculated by the department (~~(of natural resources)~~) and approved by the board (~~(of natural resources)~~).

Sec. 538. RCW 79.68.040 and 1987 c 159 s 3 are each amended to read as follows:

The department (~~(of natural resources)~~) shall manage the state-owned lands under its jurisdiction which are primarily valuable for the purpose of growing forest crops on a sustained yield basis insofar as compatible with other statutory directives. To this end, the department shall periodically adjust the acreages

designated for inclusion in the sustained yield management program and calculate a sustainable harvest level.

Sec. 539. RCW 79.68.060 and 1971 ex.s. c 234 s 6 are each amended to read as follows:

For the purpose of providing increased continuity in the management of public lands and of facilitating long range planning by interested agencies, the department (~~(of natural resources)~~) is authorized to identify and to withdraw from all conflicting uses at such times and for such periods as it shall determine appropriate, limited acreages of public lands under its jurisdiction. Acreages so withdrawn shall be maintained for the benefit of the public and, in particular, of the public schools, colleges, and universities, as areas in which may be observed, studied, enjoyed, or otherwise utilized the natural ecological systems thereon, whether such systems be unique or typical to the state of Washington. Nothing herein is intended to or shall modify the department's obligation to manage the land under its jurisdiction in the best interests of the beneficiaries of granted trust lands.

Sec. 540. RCW 79.68.070 and 1987 c 472 s 12 are each amended to read as follows:

The department (~~(of natural resources)~~) is hereby authorized to carry out all activities necessary to achieve the purposes of RCW 79.01.128 (as recodified by this act), 79.44.003, and this chapter (as recodified by this act), including, but not limited to:

(1) Planning, construction, and operation of conservation, recreational sites, areas, roads, and trails, by itself or in conjunction with any public agency;

(2) Planning, construction, and operation of special facilities for educational, scientific, conservation, or experimental purposes by itself or in conjunction with any other public or private agency;

(3) Improvement of any lands to achieve the purposes of RCW 79.01.128 (as recodified by this act), 79.44.003, and this chapter (as recodified by this act);

(4) Cooperation with public and private agencies in the utilization of such lands for watershed purposes;

(5) The authority to make such leases, contracts, agreements, or other arrangements as are necessary to accomplish the purposes of RCW 79.01.128 (as recodified by this act), 79.44.003, and this chapter (~~(: PROVIDED, That)~~) (as recodified by this act). However, nothing (herein) in this section shall affect any existing requirements for public bidding or auction with private agencies or parties, except that agreements or other arrangements may be made with public schools, colleges, universities, governmental agencies, and nonprofit scientific and educational associations.

Sec. 541. RCW 79.68.080 and 1971 ex.s. c 234 s 8 are each amended to read as follows:

The department (~~(of natural resources)~~) shall foster the commercial and recreational use of the aquatic environment for production of food, fibre, income, and public enjoyment from state-owned aquatic lands under its jurisdiction and from associated waters, and to this end the department may develop and improve production and harvesting of seaweeds and sealife attached to or growing on aquatic land or contained in aquaculture containers, but nothing

in this section shall alter the responsibility of other state agencies for their normal management of fish, shellfish, game, and water.

Sec. 542. RCW 79.68.090 and 1971 ex.s. c 234 s 9 are each amended to read as follows:

The department (~~(of natural resources)~~) may adopt a multiple use land resource allocation plan for all or portions of the lands under its jurisdiction providing for the identification and establishment of areas of land uses and identifying those uses which are best suited to achieve the purposes of RCW 79.01.128 (as recodified by this act), 79.44.003, and this chapter (as recodified by this act). Such plans shall take into consideration the various ecological conditions, elevations, soils, natural features, vegetative cover, climate, geographical location, values, public use potential, accessibility, economic uses, recreational potentials, local and regional land use plans or zones, local, regional, state, and federal comprehensive land use plans or studies, and all other factors necessary to achieve the purposes of RCW 79.01.128 (as recodified by this act), 79.44.003, and this chapter (as recodified by this act).

Sec. 543. RCW 79.68.100 and 1971 ex.s. c 234 s 10 are each amended to read as follows:

The department (~~(of natural resources)~~) may confer with other public and private agencies to facilitate the formulation of policies and/or plans providing for multiple use concepts. The department (~~(of natural resources)~~) is empowered to hold public hearings from time to time to assist in achieving the purposes of RCW 79.01.128 (as recodified by this act), 79.44.003, and this chapter (as recodified by this act).

Sec. 544. RCW 79.68.110 and 1971 ex.s. c 234 s 13 are each amended to read as follows:

The department (~~(of natural resources)~~) may comply with county or municipal zoning ordinances, laws, rules, or regulations affecting the use of state lands under the jurisdiction of the department (~~(of natural resources)~~) where such regulations are consistent with the treatment of similar private lands.

Sec. 545. RCW 79.68.120 and 1971 ex.s. c 234 s 16 are each amended to read as follows:

(1) The department (~~(of natural resources)~~) shall design expansion of its land use data bank to include additional information that will assist in the formulation, evaluation, and updating of intermediate and long-range goals and policies for land use, population growth and distribution, urban expansion, open space, resource preservation and utilization, and other factors which shape statewide development patterns and significantly influence the quality of the state's environment. The system shall be designed to permit inclusion of other lands in the state and will do so as financing and time permit.

(2) Such data bank shall contain any information relevant to the future growth of agriculture, forestry, industry, business, residential communities, and recreation; the wise use of land and other natural resources which are in accordance with their character and adaptability; the conservation and protection of the soil, air, water, and forest resources; the protection of the beauty of the landscape; and the promotion of the efficient and economical uses of public resources.

The information shall be assembled from all possible sources, including but not limited to, the federal government and its agencies, all state agencies, all political subdivisions of the state, all state operated universities and colleges, and any source in the private sector. All state agencies, all political subdivisions of the state, and all state universities and colleges are directed to cooperate to the fullest extent in the collection of data in their possession. Information shall be collected on all areas of the state but collection may emphasize one region at a time.

(3) The data bank shall make maximum use of computerized or other advanced data storage and retrieval methods. The department is authorized to engage consultants in data processing to ensure that the data bank will be as complete and efficient as possible.

(4) The data shall be made available for use by any governmental agency, research organization, university or college, private organization, or private person as a tool to evaluate the range of alternatives in land and resource planning in the state.

Sec. 546. RCW 79.68.900 and 1971 ex.s. c 234 s 12 are each amended to read as follows:

Nothing in RCW 79.01.128 (as recodified by this act), 79.44.003, and this chapter (as recodified by this act) shall be construed to affect or repeal any existing authority or powers of the department (~~(of natural resources)~~) in the management or administration of the lands under its jurisdiction.

Sec. 547. RCW 79.68.910 and 1971 ex.s. c 234 s 15 are each amended to read as follows:

Nothing in RCW 79.01.128 (as recodified by this act), 79.44.003, and this chapter (as recodified by this act) shall be construed to affect, amend, or repeal any existing withdrawal of public lands for state park or state game purposes.

Sec. 548. RCW 79.70.020 and 1981 c 189 s 1 are each amended to read as follows:

~~(For the purposes of this chapter.)~~ The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Department" (~~shall~~) means the department of natural resources.

(2) "Natural areas" and "natural area preserves" (~~shall mean~~) include such public or private areas of land or water which have retained their natural character, although not necessarily completely natural and undisturbed, or which are important in preserving rare or vanishing flora, fauna, geological, natural historical or similar features of scientific or educational value and which are acquired or voluntarily registered or dedicated by the owner under this chapter.

(3) "Public lands" and "state lands" (~~shall~~) have the meaning set out in RCW 79.01.004 (as recodified by this act).

(4) "Council" means the natural heritage advisory council as established in RCW 79.70.070.

(5) "Commissioner" means the commissioner of public lands.

(6) "Instrument of dedication" means any written document intended to convey an interest in real property pursuant to chapter 64.04 RCW.

(7) "Natural heritage resources" means the plant community types, aquatic types, unique geologic types, and special plant and animal species and their

critical habitat as defined in the natural heritage plan established under RCW 79.70.030.

(8) "Plan" means the natural heritage plan as established under RCW 79.70.030.

(9) "Program" means the natural heritage program as established under RCW 79.70.030.

(10) "Register" means the Washington register of natural area preserves as established under RCW 79.70.030.

Sec. 549. RCW 79.70.030 and 2002 c 284 s 1 are each amended to read as follows:

In order to set aside, preserve, and protect natural areas within the state, the department is authorized, in addition to any other powers, to:

(1) Establish the criteria for selection, acquisition, management, protection, and use of such natural areas, including:

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

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

(2) Cooperate or contract with any federal, state, or local governmental agency, private organizations, or individuals in carrying out the purpose of this chapter;

(3) Consistent with the plan, acquire by gift, devise, purchase, grant, dedication, or means other than eminent domain, the fee or any lesser right or interest in real property which shall be held and managed as a natural area;

(4) Acquire by gift, devise, grant, or donation any personal property to be used in the acquisition and/or management of natural areas;

(5) Inventory existing public, state, and private lands in cooperation with the council to assess possible natural areas to be preserved within the state;

(6) Maintain a natural heritage program to provide assistance in the selection and nomination of areas containing natural heritage resources for registration or dedication. The program shall maintain a classification of natural heritage resources, an inventory of their locations, and a data bank for such information. The department (~~(of natural resources)~~) shall cooperate with the department of fish and wildlife in the selection and nomination of areas from the data bank that relate to critical wildlife habitats. Information from the data bank shall be made available to public and private agencies and individuals for environmental assessment and proprietary land management purposes. Usage of the classification, inventory, or data bank of natural heritage resources for any purpose inconsistent with the natural heritage program is not authorized;

(7) Prepare a natural heritage plan which shall govern the natural heritage program in the conduct of activities to create and manage a system of natural

areas that includes natural resources conservation areas, and may include areas designated under the research natural area program on federal lands in the state;

(a) The plan shall list the natural heritage resources to be considered for registration and shall provide criteria for the selection and approval of natural areas under this chapter;

(b) The department shall provide opportunities for input, comment, and review to the public, other public agencies, and private groups with special interests in natural heritage resources during preparation of the plan;

(c) Upon approval by the council and adoption by the department, the plan shall be updated and submitted biennially to the appropriate committees of the legislature for their information and review. The plan shall take effect ninety days after the adjournment of the legislative session in which it is submitted unless the reviewing committees suggest changes or reject the plan; and

(8) Maintain a state register of natural areas containing significant natural heritage resources to be called the Washington register of natural area preserves. Selection of natural areas for registration shall be in accordance with criteria listed in the natural heritage plan and accomplished through voluntary agreement between the owner of the natural area and the department. No privately owned lands may be proposed to the council for registration without prior notice to the owner or registered without voluntary consent of the owner. No state or local governmental agency may require such consent as a condition of any permit or approval of or settlement of any civil or criminal proceeding or to penalize any landowner in any way for failure to give, or for withdrawal of, such consent.

(a) The department shall adopt rules (~~and regulations~~) as authorized by RCW 43.30.310 (as recodified by this act) and 79.70.030(1) and chapter 34.05 RCW relating to voluntary natural area registration.

(b) After approval by the council, the department may place sites onto the register or remove sites from the register.

(c) The responsibility for management of registered natural area preserves shall be with the preserve owner. A voluntary management agreement may be developed between the department and the owners of the sites on the register.

(d) Any public agency may register lands under provisions of this chapter.

Sec. 550. RCW 79.70.090 and 1981 c 189 s 6 are each amended to read as follows:

(1) The owner of a registered natural area, whether a private individual or an organization, may voluntarily agree to dedicate the area as a natural area by executing with the state an instrument of dedication in a form approved by the council. The instrument of dedication shall be effective upon its recording in the real property records of the appropriate county or counties in which the natural area is located. The county assessor in computing assessed valuation shall take into consideration any reductions in property values and/or highest and best use which result from natural area dedication.

(2) A public agency owning or managing a registered natural area preserve may dedicate lands under the provisions of this chapter.

(3) The department shall adopt rules (~~and regulations~~) as authorized by RCW 43.30.310 (as recodified by this act) and 79.70.030(1) relating to voluntary natural area dedication and defining:

(a) The types of real property interests that may be transferred;

- (b) Real property transfer methods and the types of consideration of payment possible;
- (c) Additional dedication provisions, such as natural area management, custody, use, and rights and privileges retained by the owner; and
- (d) Procedures for terminating dedication arrangements.

REPEALED SECTIONS

NEW SECTION. Sec. 551. The following acts or parts of acts are each repealed:

- (1) RCW 79.01.036 ("Improvements" defined) and 1982 1st ex.s. c 21 s 147, 1979 ex.s. c 109 s 1, & 1927 c 255 s 9;
- (2) RCW 79.01.038 ("Valuable materials" defined) and 1982 1st ex.s. c 21 s 148 & 1959 c 257 s 1;
- (3) RCW 79.01.048 (Board of appraisers) and 1988 c 128 s 50 & 1927 c 255 s 12;
- (4) RCW 79.01.068 (Land inspectors—Compensation—Oaths) and 1988 c 128 s 52 & 1927 c 255 s 17;
- (5) RCW 79.01.072 (False statements—Penalty) and 1988 c 128 s 53 & 1927 c 255 s 18;
- (6) RCW 79.01.132 (Valuable materials sold separately—Initial deposit—Advance payment/guarantee payment—Time limit on removal—Direct sale of valuable materials—Performance security—Proof of taxes paid) and 2001 c 250 s 4, 2001 c 187 s 1, 1999 c 51 s 1, 1997 c 116 s 1, 1989 c 148 s 1, 1988 c 136 s 2, & 1983 c 2 s 16;
- (7) RCW 79.01.133 (Valuable materials sold separately—"Lump sum sale" and "scale sale" defined for purposes of RCW 79.01.132) and 1969 ex.s. c 14 s 1;
- (8) RCW 79.01.140 (Possession after termination or expiration of lease—Extensions for crop rotation) and 1979 ex.s. c 109 s 6 & 1927 c 255 s 35;
- (9) RCW 79.01.152 (Witnesses—Compelling attendance, examination, etc., in fixing values) and 1988 c 128 s 55 & 1927 c 255 s 38;
- (10) RCW 79.01.252 (Lease procedure—Notice to be posted—Lease to highest bidder) and 1979 ex.s. c 109 s 12 & 1927 c 255 s 63;
- (11) RCW 79.01.256 (Lease procedure—Rental payment) and 1979 ex.s. c 109 s 13 & 1927 c 255 s 64;
- (12) RCW 79.01.260 (Lease procedure—Disposition of moneys) and 1979 ex.s. c 109 s 14 & 1927 c 255 s 65;
- (13) RCW 79.01.264 (Lease procedure—Rejection or approval of leases) and 1985 c 197 s 2, 1979 ex.s. c 109 s 15, & 1927 c 255 s 66;
- (14) RCW 79.01.277 (Lease procedure—Converting to a new lease) and 1979 ex.s. c 109 s 17;
- (15) RCW 79.01.704 (Witnesses—Compelling attendance, production of books, etc.) and 1989 c 373 s 26, 1971 ex.s. c 292 s 54, 1959 c 257 s 39, & 1927 c 255 s 186;
- (16) RCW 79.08.190 (Exchange of lands to facilitate marketing of forest products or to consolidate and block up state lands—Lands acquired—How held and administered) and 1957 c 290 s 2; and

(17) RCW 79.08.200 (Exchange of lands to facilitate marketing of forest products or to consolidate and block up state lands—Agreements, deeds, etc.) and 1957 c 290 s 3.

RECODIFIED SECTIONS

NEW SECTION. Sec. 552. RCW 79.01.056, 79.01.060, 79.01.064, and 79.01.736 are each recodified as sections in chapter 43.12 RCW.

NEW SECTION. Sec. 553. RCW 79.01.052 is recodified as a section in a new chapter in Title 43 RCW, created in section 128 of this act, under the subchapter heading "Board of natural resources."

NEW SECTION. Sec. 554. A new chapter is added to Title 79 RCW and is named "Public lands management—General." The following sections are codified or recodified under the following subchapters:

(1) "General provisions" as follows:

RCW 79.01.004;
Section 302 of this act;
RCW 79.01.500;
RCW 79.01.740;
RCW 79.01.240;
RCW 79.01.765;
RCW 79.08.170; and
RCW 79.01.093.

(2) "Federal land grants" as follows:

RCW 79.01.732;
RCW 79.01.308;
RCW 79.28.010;
RCW 79.28.020;
RCW 79.28.030;
RCW 79.01.076; and
RCW 79.01.080.

(3) "Contracts/records/fees/applications" as follows:

RCW 79.01.304;
RCW 79.01.708;
RCW 79.01.712;
RCW 79.01.084;
RCW 79.01.720;
Section 313 of this act;
RCW 79.01.724;
RCW 79.01.220;
RCW 79.01.292; and
RCW 79.01.236.

(4) "Trespass/regulations/penalties" as follows:

RCW 79.01.760;
RCW 79.01.748;
RCW 79.01.756;
RCW 79.01.752;
RCW 79.40.070;
RCW 79.40.080; and

Section 333 of this act.

(5) "Other trust/grant/forest reserve lands" as follows:
RCW 79.01.006; and
RCW 79.01.007.

NEW SECTION. Sec. 555. A new chapter is added to Title 79 RCW and is named "Land management authorities and policies." The following sections are recodified under the following subchapters:

(1) "General provisions" as follows:

RCW 79.01.744;
RCW 79.01.074;
RCW 79.01.612;
RCW 79.68.110;
RCW 79.01.128;
RCW 79.01.164; and
RCW 79.01.095.

(2) "Multiple use" as follows:

RCW 79.68.010;
RCW 79.68.020;
RCW 79.68.050;
RCW 79.01.244;
RCW 79.68.070;
RCW 79.68.090;
RCW 79.68.060;
RCW 79.68.100;
RCW 79.68.900;
RCW 79.68.910; and
RCW 79.68.120.

(3) "Sustainable harvest" as follows:

RCW 79.68.035;
RCW 79.68.030;
RCW 79.68.040; and
RCW 79.68.045.

(4) "Cooperative forest management agreements" as follows:

RCW 79.60.010;
RCW 79.60.020;
RCW 79.60.030;
RCW 79.60.040;
RCW 79.60.050;
RCW 79.60.060;
RCW 79.60.070;
RCW 79.60.080; and
RCW 79.60.090.

NEW SECTION. Sec. 556. A new chapter is added to Title 79 RCW and is named "State land sales." The following sections are codified or recodified under the following subchapters:

(1) "Sale procedures" as follows:

RCW 79.01.096;
RCW 79.01.094;

RCW 79.01.216;
RCW 79.01.088;
RCW 79.01.112;
RCW 79.01.120;
RCW 79.01.092;
RCW 79.01.200;
RCW 79.01.116;
RCW 79.01.136;
RCW 79.01.184;
RCW 79.01.188;
RCW 79.01.192;
RCW 79.01.204;
RCW 79.01.148;
RCW 79.01.196;
RCW 79.01.212;
RCW 79.01.208;
RCW 79.01.228;
RCW 79.01.224; and
RCW 79.08.110.

(2) "Platting" as follows:

RCW 79.01.100;
RCW 79.01.104; and
RCW 79.01.108.

(3) "Other sale provisions" as follows:

RCW 79.01.300;
RCW 79.01.301;
RCW 79.01.728; and
Section 399 of this act.

NEW SECTION. Sec. 557. A new chapter is added to Title 79 RCW and is named "Land leases." The following sections are codified or recodified under the following subchapters:

(1) "General provisions" as follows:

RCW 79.01.242;
Sections 370, 367, 316, 315, 323, and 375 of this act;
RCW 79.01.172; and
RCW 79.08.120.

(2) "Lease procedure" as follows:

Sections 368 and 369 of this act;
RCW 79.01.248;
Sections 373, 400, and 337 of this act;
RCW 79.01.284; and
RCW 79.01.268.

(3) "Agricultural/grazing leases" as follows:

RCW 79.12.570;
RCW 79.12.600;
RCW 79.12.610;
RCW 79.12.620;
RCW 79.12.630;
RCW 79.01.296;

RCW 79.28.040;
RCW 79.28.050;
RCW 79.28.070; and
RCW 79.28.080.

(4) "Other leases" as follows:

RCW 79.12.015;
RCW 79.12.025;
RCW 79.12.055; and
RCW 79.12.095.

(5) "Ecosystem standards" as follows:

RCW 79.01.2951;
RCW 79.01.295; and
RCW 79.01.2955.

NEW SECTION. Sec. 558. The following sections are recodified under the following subchapters in chapter 79.14 RCW:

(1) "Oil and gas" as follows:

RCW 79.14.010;
RCW 79.14.020;
RCW 79.14.030;
RCW 79.14.040;
RCW 79.14.050;
RCW 79.14.060;
RCW 79.14.070;
RCW 79.14.080;
RCW 79.14.090;
RCW 79.14.100;
RCW 79.14.110;
RCW 79.14.120;
RCW 79.14.130;
RCW 79.14.140;
RCW 79.14.150;
RCW 79.14.160;
RCW 79.14.170;
RCW 79.14.180;
RCW 79.14.190;
RCW 79.14.200;
RCW 79.14.210; and
RCW 79.14.220.

(2) "Prospecting and mining" as follows:

RCW 79.01.616;
RCW 79.01.617;
RCW 79.01.651;
RCW 79.01.618;
RCW 79.01.620;
RCW 79.01.624;
RCW 79.01.628;
RCW 79.01.632;
RCW 79.01.633;
RCW 79.01.634;

RCW 79.01.640;
RCW 79.01.642;
RCW 79.01.644;
RCW 79.01.645;
RCW 79.01.648;
RCW 79.01.649; and
RCW 79.01.650.

(3) "Coal mining" as follows:

RCW 79.01.652;
RCW 79.01.656;
RCW 79.01.660;
RCW 79.01.664;
RCW 79.01.668;
RCW 79.01.672;
RCW 79.01.676;
RCW 79.01.680;
RCW 79.01.684;
RCW 79.01.688;
RCW 79.01.692;
RCW 79.01.696; and
RCW 79.14.900.

NEW SECTION. Sec. 559. A new chapter is added to Title 79 RCW and is named "Sale of valuable materials." The following sections are codified or recodified under the following subchapters:

(1) "General provisions" as follows:

RCW 79.01.124;
Section 319 of this act;
RCW 79.01.160;
RCW 79.01.168;
Sections 312 and 353 of this act;
RCW 79.01.082;
Sections 329, 350, 347, 345, 334, 355, and 358 of this act;
RCW 79.01.232;
RCW 79.01.238; and
Section 351 of this act.

(2) "Damaged timber" as follows:

RCW 79.01.790; and
RCW 79.01.795.

(3) "Rock, gravel, etc., sales" as follows:

RCW 79.01.134; and
RCW 79.01.176.

NEW SECTION. Sec. 560. A new chapter is added to Title 79 RCW and is named "Land transfers." The following sections are codified or recodified under the following subchapters:

(1) "Exchanges" as follows:

RCW 79.08.180;
RCW 79.08.070;
RCW 79.08.250; and

RCW 79.08.015.

(2) "Purchase or lease of land by school districts and institutions of higher education" as follows:

Section 322 of this act;

RCW 79.01.770;

RCW 79.01.774;

RCW 79.01.778; and

RCW 79.01.780.

(3) "Land transfer" as follows:

RCW 79.01.009.

NEW SECTION. Sec. 561. A new chapter is added to Title 79 RCW and is named "Land bank." The following sections are recodified and added to the new chapter created in this section:

RCW 79.66.010;

RCW 79.66.020;

RCW 79.66.030;

RCW 79.66.040;

RCW 79.66.050;

RCW 79.66.060;

RCW 79.66.070;

RCW 79.66.080;

RCW 79.66.090;

RCW 79.01.784;

RCW 79.66.100;

RCW 79.66.900; and

RCW 79.66.901.

NEW SECTION. Sec. 562. A new chapter is added to Title 79 RCW and is named "Acquisition, management, and disposition of state forest lands."

NEW SECTION. Sec. 563. The following sections are recodified as sections in chapter 79.36 RCW, retitled "Easements and rights of way," under the subchapter heading "Granting":

RCW 79.01.332;

RCW 79.01.414;

RCW 79.01.416;

RCW 79.01.312;

RCW 79.01.316;

RCW 79.01.320;

RCW 79.01.324;

RCW 79.01.328;

RCW 79.01.336;

RCW 79.01.340;

RCW 79.01.344;

RCW 79.01.348;

RCW 79.01.352;

RCW 79.01.356;

RCW 79.01.360;

RCW 79.01.364;

RCW 79.01.384;

RCW 79.01.388;
RCW 79.01.392;
RCW 79.01.396;
RCW 79.01.400;
RCW 79.01.404;
RCW 79.01.408;
RCW 79.01.412;
RCW 79.36.230;
RCW 79.36.240;
RCW 79.36.250;
RCW 79.36.260;
RCW 79.36.270;
RCW 79.36.280; and
RCW 79.36.290.

NEW SECTION. Sec. 564. The following sections are recodified under a new subchapter entitled "State lands" in chapter 79.64 RCW:

RCW 79.64.010;
RCW 79.64.020;
RCW 79.64.030;
RCW 79.64.040;
RCW 79.64.050;
RCW 79.64.060;
RCW 79.64.070; and
RCW 79.64.090.

NEW SECTION. Sec. 565. RCW 79.12.035 is recodified as a section in chapter 79.64 RCW under the subchapter heading "State forest lands."

NEW SECTION. Sec. 566. RCW 79.08.275, 79.08.277, 79.08.279, 79.08.281, 79.08.283, and 79.08.284 are recodified in a new chapter in Title 79 RCW entitled "Milwaukee road corridor."

NEW SECTION. Sec. 567. A new chapter is added to Title 79 RCW and is named "Geothermal resources." The following sections are recodified and added to the new chapter created in this section:

RCW 79.76.010;
RCW 79.76.020;
RCW 79.76.030;
RCW 79.76.040;
RCW 79.76.050;
RCW 79.76.060;
RCW 79.76.070;
RCW 79.76.080;
RCW 79.76.090;
RCW 79.76.100;
RCW 79.76.110;
RCW 79.76.120;
RCW 79.76.130;
RCW 79.76.140;
RCW 79.76.150;
RCW 79.76.160;

RCW 79.76.170;
 RCW 79.76.180;
 RCW 79.76.190;
 RCW 79.76.200;
 RCW 79.76.210;
 RCW 79.76.220;
 RCW 79.76.230;
 RCW 79.76.240;
 RCW 79.76.250;
 RCW 79.76.260;
 RCW 79.76.270;
 RCW 79.76.280;
 RCW 79.76.290;
 RCW 79.76.300; and
 RCW 79.76.900.

NEW SECTION. Sec. 568. A new chapter is added to Title 78 RCW entitled "Marine plastic debris." The following sections are recodified and added to the new chapter created in this section:

RCW 79.81.010;
 RCW 79.81.020;
 RCW 79.81.030;
 RCW 79.81.040;
 RCW 79.81.050;
 RCW 79.81.060; and
 RCW 79.81.900.

NEW SECTION. Sec. 569. RCW 79.24.580, 79.68.080, and 79.08.260 are each recodified as sections in chapter 79.90 RCW.

NEW SECTION. Sec. 570. RCW 79.08.080, 79.08.090, and 79.08.100 are each recodified as sections in chapter 79.94 RCW.

NEW SECTION. Sec. 571. RCW 79.01.800, 79.01.805, 79.01.810, and 79.01.815 are each recodified as sections in chapter 79.96 RCW.

PART 4 TITLE 79 (AQUATIC STATUTES) AMENDMENTS

Sec. 601. RCW 79.90.270 and 1982 1st ex.s. c 21 s 33 are each amended to read as follows:

Each and every contract for the sale of (and each deed to) tidelands or shorelands belonging to the state, otherwise permitted under RCW 79.94.150 to be sold, shall contain the reservation contained in RCW 79.01.224 (as recodified by this act).

Sec. 602. RCW 79.90.325 and 1984 c 212 s 10 are each amended to read as follows:

Whenever, pursuant to RCW 79.01.134 (as recodified by this act), the commissioner (~~(of public lands)~~) enters into a contract for the sale and removal of rock, gravel, sand, or silt out of a riverbed, the commissioner shall, when

establishing a royalty, take into consideration flood protection value to the public that will arise as a result of such removal.

Sec. 603. RCW 79.90.330 and 1987 c 20 s 16 are each amended to read as follows:

The department (~~(of natural resources)~~) may issue permits and leases for prospecting, placer mining contracts, and contracts for the mining of valuable minerals and specific materials, except rock, gravel, sand, silt, coal, or hydrocarbons, upon and from any aquatic lands belonging to the state, or which have been sold and the minerals thereon reserved by the state in tracts not to exceed six hundred forty acres or an entire government-surveyed section. The procedures contained at RCW 79.01.616 through 79.01.651 (as recodified by this act), inclusive, shall apply thereto.

Sec. 604. RCW 79.90.340 and 1982 1st ex.s. c 21 s 40 are each amended to read as follows:

The department (~~(of natural resources)~~) is authorized to execute option contracts for prospecting purposes and leases for the mining and extraction of coal from any aquatic lands owned by the state or from which it may hereafter acquire title, or from any aquatic lands sold or leased by the state the minerals of which have been reserved by the state. The procedures contained at RCW 79.01.652 through 79.01.696 (as recodified by this act), inclusive, shall apply thereto.

Sec. 605. RCW 79.90.380 and 1982 1st ex.s. c 21 s 44 are each amended to read as follows:

The department (~~(of natural resources)~~) shall cause full and correct abstracts of all aquatic lands, to be made and kept in the same manner as provided for in RCW 79.01.304 (as recodified by this act).

Sec. 606. RCW 79.90.400 and 1982 1st ex.s. c 21 s 46 are each amended to read as follows:

Any applicant to purchase, or lease, any aquatic lands of the state, or any valuable materials thereon, and any person whose property rights or interest will be affected by such sale or lease, feeling himself or herself aggrieved by any order or decision of the board (~~(of natural resources)~~), or the commissioner (~~(of public lands)~~), concerning the same, may appeal therefrom in the manner provided in RCW 79.01.500 (as recodified by this act).

Sec. 607. RCW 79.91.010 and 1982 1st ex.s. c 21 s 48 are each amended to read as follows:

All tide and shore lands originally belonging to the state, and which were granted, sold, or leased at any time after June 15, 1911, and which contain any valuable materials or are contiguous to or in proximity of state lands or other tide or shore lands which contain any valuable materials, shall be subject to the right of the state or any grantee or lessee thereof who has acquired such other lands, or any valuable materials thereon, after June 15, 1911, to acquire the right of way over such lands so granted, sold, or leased, for private railroads, skid roads, flumes, canals, watercourses, or other easements for the purpose of, and to be used in, transporting and moving such valuable materials from such other lands, over and across the lands so granted or leased in accordance with the provisions of RCW 79.01.312 (as recodified by this act).

Sec. 608. RCW 79.91.030 and 1982 1st ex.s. c 21 s 50 are each amended to read as follows:

Any person having acquired a right of way or easement as provided in RCW 79.91.010 and 79.91.020 over any tidelands or shorelands belonging to the state or over or across beds of any navigable water or stream for the purpose of transporting or moving valuable materials and being engaged in such business, or any grantee or lessee thereof acquiring after June 15, 1911, state lands or tide or shore lands containing valuable materials, where said land is contiguous to or in proximity of such right of way or easement, shall accord to the state or any person acquiring after June 15, 1911, valuable materials upon any such lands, proper and reasonable facilities and service for transporting and moving such valuable materials under reasonable rules (~~and regulations~~) and upon payment of just and reasonable charges thereof in accordance with the provisions of RCW 79.01.320 (as recodified by this act).

Sec. 609. RCW 79.91.040 and 1982 1st ex.s. c 21 s 51 are each amended to read as follows:

Should the owner or operator of any private railroad, skid road, flume, canal, watercourse, or other right of way or easement provided for in RCW 79.91.020 and 79.91.030 fail to agree with the state or any grantee or lessee thereof, as to the reasonable and proper rules(~~(, regulations,))~~ and charges, concerning the transportation and movement of valuable materials from those lands contiguous to or in proximity to the lands over which such private right of way or easement is operated, the state or any grantee or lessee thereof, owning and desiring to have such valuable materials transported or moved, may apply to the Washington state utilities and transportation commission for an inquiry into the reasonableness of the rules (~~and regulations~~), investigate the same, and make such binding reasonable, proper, and just rates and regulations in accordance with the provisions of RCW 79.01.324 (as recodified by this act).

Sec. 610. RCW 79.91.050 and 1982 1st ex.s. c 21 s 52 are each amended to read as follows:

Any person owning or operating any right of way or easement subject to the provisions of RCW 79.91.020 through 79.91.040, over and across any tidelands or shorelands belonging to the state or across any beds of navigable waters, and violating or failing to comply with any rule(~~(, regulation,))~~ or order made by the utilities and transportation commission, after inquiry, investigation, and a hearing as provided in RCW 79.91.040, shall be subject to the same penalties provided in RCW 79.01.328 (as recodified by this act).

Sec. 611. RCW 79.91.060 and 1982 1st ex.s. c 21 s 53 are each amended to read as follows:

Any person engaged in the business of logging or lumbering, quarrying, mining, or removing sand, gravel, or other valuable materials from land, and desirous of obtaining a right of way or easement provided for in RCW 79.91.010 through 79.91.030 over and across any tide or shore lands belonging to the state, or beds of navigable waters or any such lands sold or leased by the state since June 15, 1911, shall file with the department (~~(of natural resources))~~ upon a form to be furnished for that purpose, a written application for such right of way in accordance with the provisions of RCW 79.01.332 (as recodified by this act).

Sec. 612. RCW 79.91.080 and 1982 1st ex.s. c 21 s 55 are each amended to read as follows:

Any county or city or the United States of America or any state agency desiring to locate, establish, and construct a road or street over and across any aquatic lands, or wharf over any tide or shore lands, belonging to the state, shall by resolution of the legislative body of such county, or city council or other governing body of such city, or proper agency of the United States of America or state agency, cause to be filed with the department (~~(of natural resources)~~) a petition for a right of way for such road or street or wharf in accordance with the provisions of RCW 79.01.340 (as recodified by this act).

The department may grant the petition if it deems it in the best interest of the state and upon payment for such right of way and any damages to the affected aquatic lands.

Sec. 613. RCW 79.91.190 and 1982 1st ex.s. c 21 s 66 are each amended to read as follows:

The department (~~(of natural resources)~~) shall have the power and authority to grant to any person, the right, privilege, and authority to perpetually back and hold water upon or over any state-owned tidelands or shorelands, and to overflow and inundate the same, whenever the department shall deem it necessary for the purpose of erecting, constructing, maintaining, or operating any water power plant, reservoir, or works for impounding water for power purposes, irrigation, mining, or other public use in accordance with the provisions of RCW 79.01.408 (as recodified by this act).

Sec. 614. RCW 79.91.210 and 1982 1st ex.s. c 21 s 68 are each amended to read as follows:

The department (~~(of natural resources)~~) may grant to any person such easements and rights in tidelands and shorelands and oyster reserves owned by the state as the applicant may acquire in privately or publicly owned lands through proceedings in eminent domain in accordance with the provisions of RCW 79.01.414 (as recodified by this act).

Sec. 615. RCW 79.94.450 and 1987 c 271 s 4 are each amended to read as follows:

The department (~~(of natural resources)~~) is authorized to deed, by exchanges of property, to the United States Navy those tidelands necessary to facilitate the location of the United States Navy base in Everett. In carrying out this authority, the department (~~(of natural resources)~~) shall request that the governor execute the deed in the name of the state attested to by the secretary of state. The department (~~(of natural resources)~~) will follow the requirements outlined in RCW 79.08.015 (as recodified by this act) in making the exchange. The department must exchange the state's tidelands for lands of equal value, and the land received in the exchange must be suitable for natural preserves, recreational purposes, or have commercial value. The lands must not have been previously used as a waste disposal site. Choice of the site must be made with the advice and approval of the board (~~(of natural resources)~~).

NEW SECTION. Sec. 616. This act is intended to make technical amendments to certain codified statutes that deal with the department of natural resources. Any statutory changes made by this act should be interpreted as

technical in nature and not be interpreted to have any substantive, policy implications.

Passed by the House February 24, 2003.

Passed by the Senate April 15, 2003.

Approved by the Governor May 16, 2003, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 16, 2003.

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

"I am returning herewith, without my approval as to section 123 Engrossed House Bill No. 1252 entitled:

"AN ACT Relating to the recodification of Title 79 RCW and related public land statutes;"

This bill reorganizes the statutes governing the Department of Natural Resources' management of state uplands.

Section 123 amends RCW 43.30.310 as did Senate Bill No. 5758, which I signed on April 22, 2003. While the amendments in both bills are strictly technical in nature, they create a double amendment that cannot be merged. Therefore, to avoid confusion, I have vetoed section 123.

For these reasons, I have vetoed section 123 of Engrossed House Bill No. 1252.

With the exception of section 123, Engrossed House Bill No. 1252 is approved."

CHAPTER 335

[Substitute House Bill 1380]

MINERAL TRESPASS

AN ACT Relating to creating the crime of mineral trespass; reenacting and amending RCW 9.94A.515, 9.94A.515, and 13.40.0357; adding new sections to chapter 78.44 RCW; prescribing penalties; providing an effective date; and providing an expiration date.

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

NEW SECTION. Sec. 1. The definitions in this section apply throughout section 2 of this act unless the context clearly requires otherwise.

(1) "Bedrock sluice" means a wood or metal flume or trough that is permanently attached to the bedrock of the creek and is equipped with transverse riffles across the bottom of the unit and used to recover heavy mineral sands.

(2) "Dredge" means a subsurface hose from one and one-half to ten inches in diameter that is powered by an engine and is used to draw up auriferous material that is then separated in the sluice portion of the unit.

(3) "Flume" means a trough used to convey water.

(4) "Mining claim" means a portion of the public lands claimed for the valuable minerals occurring in those lands and for which the mineral rights are obtained under federal law or a right that is recognized by the United States bureau of land management and given an identification number.

(5) "Quartz mill" means a facility for processing ores or gravel.

(6) "Rocker box" means a unit constructed of a short trough attached to curved supports that allow the unit to be rocked from side to side.

(7) "Sluice box" means a portable unit constructed of a wood or metal flume or trough equipped with transverse riffles across the bottom of the unit and that is used to recover heavy mineral sands.

NEW SECTION. Sec. 2. (1) A person commits the crime of mineral trespass if the person intentionally and without the permission of the claim holder or person conducting the mining operation:

(a) Interferes with a lawful mining operation or stops, or causes to be stopped, a lawful mining operation;

(b) Enters a mining claim posted as required in chapter 78.08 RCW and disturbs, removes, or attempts to remove any mineral from the claim site;

(c) Tampers with or disturbs a flume, rocker box, bedrock sluice, sluice box, dredge, quartz mill, or other mining equipment at a posted mining claim; or

(d) Defaces a location stake, side post, corner post, landmark, monument, or posted written notice within a posted mining claim.

(2) Mineral trespass is a class C felony.

NEW SECTION. Sec. 3. (1) Section 2 of this act does not apply to conduct that would otherwise constitute an offense when it is required or authorized by law or judicial decree or is performed by a public servant in the reasonable exercise of official powers, duties, or functions.

(2) As used in subsection (1) of this section, "laws or judicial decrees" includes but is not limited to:

(a) Laws defining duties and functions of public servants;

(b) Laws defining duties of private citizens to assist public servants in the performance of certain of their functions; and

(c) Judgments and orders of courts.

Sec. 4. RCW 9.94A.515 and 2002 c 340 s 2, 2002 c 324 s 2, 2002 c 290 s 2, 2002 c 253 s 4, 2002 c 229 s 2, 2002 c 134 s 2, and 2002 c 133 s 4 are each reenacted and amended to read as follows:

TABLE 2	
CRIMES INCLUDED WITHIN EACH	
SERIOUSNESS LEVEL	
XVI	Aggravated Murder 1 (RCW 10.95.020)
XV	Homicide by abuse (RCW 9A.32.055)
	Malicious explosion 1 (RCW 70.74.280(1))
	Murder 1 (RCW 9A.32.030)
XIV	Murder 2 (RCW 9A.32.050)
XIII	Malicious explosion 2 (RCW 70.74.280(2))
	Malicious placement of an explosive 1 (RCW 70.74.270(1))
XII	Assault 1 (RCW 9A.36.011)
	Assault of a Child 1 (RCW 9A.36.120)
	Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a))

- Rape 1 (RCW 9A.44.040)
- Rape of a Child 1 (RCW 9A.44.073)
- XI Manslaughter 1 (RCW 9A.32.060)
 - Rape 2 (RCW 9A.44.050)
 - Rape of a Child 2 (RCW 9A.44.076)
- X Child Molestation 1 (RCW 9A.44.083)
 - Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))
 - Kidnapping 1 (RCW 9A.40.020)
 - Leading Organized Crime (RCW 9A.82.060(1)(a))
 - Malicious explosion 3 (RCW 70.74.280(3))
 - Manufacture of methamphetamine (RCW 69.50.401(a)(1)(ii))
 - Over 18 and deliver heroin, methamphetamine, a narcotic from Schedule I or II, or flunitrazepam from Schedule IV to someone under 18 (RCW 69.50.406)
 - Sexually Violent Predator Escape (RCW 9A.76.115)
- IX Assault of a Child 2 (RCW 9A.36.130)
 - Controlled Substance Homicide (RCW 69.50.415)
 - Explosive devices prohibited (RCW 70.74.180)
 - Hit and Run—Death (RCW 46.52.020(4)(a))
 - Homicide by Watercraft, by being under the influence of intoxicating liquor or any drug (RCW 79A.60.050)
 - Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))
 - Malicious placement of an explosive 2 (RCW 70.74.270(2))

- Over 18 and deliver narcotic from Schedule III, IV, or V or a nonnarcotic, except flunitrazepam or methamphetamine, from Schedule I-V to someone under 18 and 3 years junior (RCW 69.50.406)
- Robbery 1 (RCW 9A.56.200)
- Sexual Exploitation (RCW 9.68A.040)
- Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)
- VIII Arson 1 (RCW 9A.48.020)
 - Deliver or possess with intent to deliver methamphetamine (RCW 69.50.401(a)(1)(ii))
 - Homicide by Watercraft, by the operation of any vessel in a reckless manner (RCW 79A.60.050)
 - Manslaughter 2 (RCW 9A.32.070)
 - Manufacture, deliver, or possess with intent to deliver amphetamine (RCW 69.50.401(a)(1)(ii))
 - Manufacture, deliver, or possess with intent to deliver heroin or cocaine (when the offender has a criminal history in this state or any other state that includes a sex offense or serious violent offense or the Washington equivalent) (RCW 69.50.401(a)(1)(i))
 - Possession of Ephedrine or any of its Salts or Isomers or Salts of Isomers, Pseudoephedrine or any of its Salts or Isomers or Salts of Isomers, Pressurized Ammonia Gas, or Pressurized Ammonia Gas Solution with intent to manufacture methamphetamine (RCW 69.50.440)
 - Promoting Prostitution 1 (RCW 9A.88.070)

- Selling for profit (controlled or counterfeit) any controlled substance (RCW 69.50.410)
- Theft of Ammonia (RCW 69.55.010)
- Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)
- VII Burglary 1 (RCW 9A.52.020)
- Child Molestation 2 (RCW 9A.44.086)
- Civil Disorder Training (RCW 9A.48.120)
- Dealing in depictions of minor engaged in sexually explicit conduct (RCW 9.68A.050)
- Drive-by Shooting (RCW 9A.36.045)
- Homicide by Watercraft, by disregard for the safety of others (RCW 79A.60.050)
- Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1) (b) and (c))
- Introducing Contraband 1 (RCW 9A.76.140)
- Involving a minor in drug dealing (RCW 69.50.401(f))
- Malicious placement of an explosive 3 (RCW 70.74.270(3))
- Manufacture, deliver, or possess with intent to deliver heroin or cocaine (except when the offender has a criminal history in this state or any other state that includes a sex offense or serious violent offense or the Washington equivalent) (RCW 69.50.401(a)(1)(i))
- Sending, bringing into state depictions of minor engaged in sexually explicit conduct (RCW 9.68A.060)
- Unlawful Possession of a Firearm in the first degree (RCW 9.41.040(1)(a))

- Use of a Machine Gun in Commission of a Felony (RCW 9A.41.225)
- Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)
- VI Bail Jumping with Murder 1 (RCW 9A.76.170(3)(a))
 - Bribery (RCW 9A.68.010)
 - Incest 1 (RCW 9A.64.020(1))
 - Intimidating a Judge (RCW 9A.72.160)
 - Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)
 - Malicious placement of an imitation device 2 (RCW 70.74.272(1)(b))
 - Manufacture, deliver, or possess with intent to deliver narcotics from Schedule I or II (except heroin or cocaine) or flunitrazepam from Schedule IV (RCW 69.50.401(a)(1)(i))
 - Rape of a Child 3 (RCW 9A.44.079)
 - Theft of a Firearm (RCW 9A.56.300)
 - Unlawful Storage of Ammonia (RCW 69.55.020)
- V Abandonment of dependent person 1 (RCW 9A.42.060)
 - Advancing money or property for extortionate extension of credit (RCW 9A.82.030)
 - Bail Jumping with class A Felony (RCW 9A.76.170(3)(b))
 - Child Molestation 3 (RCW 9A.44.089)
 - Criminal Mistreatment 1 (RCW 9A.42.020)
 - Custodial Sexual Misconduct I (RCW 9A.44.160)
 - Delivery of imitation controlled substance by person eighteen or over to person under eighteen (RCW 69.52.030(2))

- Domestic Violence Court Order
Violation (RCW 10.99.040,
10.99.050, 26.09.300, 26.10.220,
26.26.138, 26.50.110, 26.52.070, or
74.34.145)
- Extortion 1 (RCW 9A.56.120)
- Extortionate Extension of Credit (RCW
9A.82.020)
- Extortionate Means to Collect
Extensions of Credit (RCW
9A.82.040)
- Incest 2 (RCW 9A.64.020(2))
- Kidnapping 2 (RCW 9A.40.030)
- Perjury 1 (RCW 9A.72.020)
- Persistent prison misbehavior (RCW
9.94.070)
- Possession of a Stolen Firearm (RCW
9A.56.310)
- Rape 3 (RCW 9A.44.060)
- Rendering Criminal Assistance 1 (RCW
9A.76.070)
- Sexual Misconduct with a Minor 1
(RCW 9A.44.093)
- Sexually Violating Human Remains
(RCW 9A.44.105)
- Stalking (RCW 9A.46.110)
- Taking Motor Vehicle Without
Permission 1 (RCW 9A.56.070(1))
- 1V Arson 2 (RCW 9A.48.030)
- Assault 2 (RCW 9A.36.021)
- Assault by Watercraft (RCW
79A.60.060)
- Bribing a Witness/Bribe Received by
Witness (RCW 9A.72.090,
9A.72.100)
- Cheating 1 (RCW 9.46.1961)
- Commercial Bribery (RCW 9A.68.060)
- Counterfeiting (RCW 9.16.035(4))

Endangerment with a Controlled
Substance (RCW 9A.42.100)

Escape 1 (RCW 9A.76.110)

Hit and Run—Injury (RCW
46.52.020(4)(b))

Hit and Run with Vessel—Injury
Accident (RCW 79A.60.200(3))

Identity Theft 1 (RCW 9.35.020(2)(a))

Indecent Exposure to Person Under Age
Fourteen (subsequent sex offense)
(RCW 9A.88.010)

Influencing Outcome of Sporting Event
(RCW 9A.82.070)

Knowingly Trafficking in Stolen
Property (RCW 9A.82.050(2))

Malicious Harassment (RCW
9A.36.080)

Manufacture, deliver, or possess with
intent to deliver narcotics from
Schedule III, IV, or V or
nonnarcotics from Schedule I-V
(except marijuana, amphetamine,
methamphetamines, or
flunitrazepam) (RCW
69.50.401(a)(1) (iii) through (v))

Residential Burglary (RCW 9A.52.025)

Robbery 2 (RCW 9A.56.210)

Theft of Livestock 1 (RCW 9A.56.080)

Tbreats to Bomb (RCW 9.61.160)

Use of Proceeds of Criminal
Profiteering (RCW 9A.82.080 (1)
and (2))

Vehicular Assault, by being under the
influence of intoxicating liquor or
any drug, or by the operation or
driving of a vehicle in a reckless
manner (RCW 46.61.522)

Willful Failure to Return from Furlough
(RCW 72.66.060)

- III Abandonment of dependent person 2
(RCW 9A.42.070)
- Assault 3 (RCW 9A.36.031)
- Assault of a Child 3 (RCW 9A.36.140)
- Bail Jumping with class B or C Felony
(RCW 9A.76.170(3)(c))
- Burglary 2 (RCW 9A.52.030)
- Communication with a Minor for
Immoral Purposes (RCW
9.68A.090)
- Criminal Gang Intimidation (RCW
9A.46.120)
- Criminal Mistreatment 2 (RCW
9A.42.030)
- Custodial Assault (RCW 9A.36.100)
- Delivery of a material in lieu of a
controlled substance (RCW
69.50.401(c))
- Escape 2 (RCW 9A.76.120)
- Extortion 2 (RCW 9A.56.130)
- Harassment (RCW 9A.46.020)
- Intimidating a Public Servant (RCW
9A.76.180)
- Introducing Contraband 2 (RCW
9A.76.150)
- Maintaining a Dwelling or Place for
Controlled Substances (RCW
69.50.402(a)(6))
- Malicious Injury to Railroad Property
(RCW 81.60.070)
- Manufacture, deliver, or possess with
intent to deliver marijuana (RCW
69.50.401(a)(1)(iii))
- Manufacture, distribute, or possess with
intent to distribute an imitation
controlled substance (RCW
69.52.030(I))
- Patronizing a Juvenile Prostitute (RCW
9.68A.100)
- Perjury 2 (RCW 9A.72.030)

- Possession of Incendiary Device (RCW 9.40.120)
- Possession of Machine Gun or Short-Barreled Shotgun or Rifle (RCW 9.41.190)
- Promoting Prostitution 2 (RCW 9A.88.080)
- Recklessly Trafficking in Stolen Property (RCW 9A.82.050(1))
- Securities Act violation (RCW 21.20.400)
- Tampering with a Witness (RCW 9A.72.120)
- Telephone Harassment (subsequent conviction or threat of death) (RCW 9.61.230)
- Theft of Livestock 2 (RCW 9A.56.080)
- Unlawful Imprisonment (RCW 9A.40.040)
- Unlawful possession of firearm in the second degree (RCW 9.41.040(1)(b))
- Unlawful Use of Building for Drug Purposes (RCW 69.53.010)
- Vehicular Assault, by the operation or driving of a vehicle with disregard for the safety of others (RCW 46.61.522)
- Willful Failure to Return from Work Release (RCW 72.65.070)
- II Computer Trespass 1 (RCW 9A.52.110)
- Counterfeiting (RCW 9.16.035(3))
- Create, deliver, or possess a counterfeit controlled substance (RCW 69.50.401(b))
- Escape from Community Custody (RCW 72.09.310)
- Health Care False Claims (RCW 48.80.030)
- Identity Theft 2 (RCW 9.35.020(2)(b))

- Improperly Obtaining Financial Information (RCW 9.35.010)
- Malicious Mischief 1 (RCW 9A.48.070)
- Possession of controlled substance that is either heroin or narcotics from Schedule I or II or flunitrazepam from Schedule IV (RCW 69.50.401(d))
- Possession of phencyclidine (PCP) (RCW 69.50.401(d))
- Possession of Stolen Property 1 (RCW 9A.56.150)
- Theft 1 (RCW 9A.56.030)
- Theft of Rental, Leased, or Lease-purchased Property (valued at one thousand five hundred dollars or more) (RCW 9A.56.096(4))
- Trafficking in Insurance Claims (RCW 48.30A.015)
- Unlawful Practice of Law (RCW 2.48.180)
- Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))
- I Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)
- False Verification for Welfare (RCW 74.08.055)
- Forged Prescription (RCW 69.41.020)
- Forged Prescription for a Controlled Substance (RCW 69.50.403)
- Forgery (RCW 9A.60.020)
- Malicious Mischief 2 (RCW 9A.48.080)
- Mineral Trespass (section 2 of this act)
- Possess Controlled Substance that is a Narcotic from Schedule III, IV, or V or Non-narcotic from Schedule I-V (except phencyclidine or flunitrazepam) (RCW 69.50.401(d))

Possession of Stolen Property 2 (RCW 9A.56.160)
 Reckless Burning 1 (RCW 9A.48.040)
 Taking Motor Vehicle Without Permission 2 (RCW 9A.56.070(2))
 Theft 2 (RCW 9A.56.040)
 Theft of Rental, Leased, or Lease-purchased Property (valued at two hundred fifty dollars or more but less than one thousand five hundred dollars) (RCW 9A.56.096(4))
 Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)
 Unlawful Use of Food Stamps (RCW 9.91.140 (2) and (3))
 Vehicle Prowl 1 (RCW 9A.52.095)

Sec. 5. RCW 9.94A.515 and 2002 c 340 s 2, 2002 c 324 s 2, 2002 c 290 s 7, 2002 c 253 s 4, 2002 c 229 s 2, 2002 c 134 s 2, and 2002 c 133 s 4 are each reenacted and amended to read as follows:

TABLE 2
 CRIMES INCLUDED WITHIN EACH
 SERIOUSNESS LEVEL

- XVI Aggravated Murder 1 (RCW 10.95.020)
- XV Homicide by abuse (RCW 9A.32.055)
 Malicious explosion 1 (RCW 70.74.280(1))
 Murder 1 (RCW 9A.32.030)
- XIV Murder 2 (RCW 9A.32.050)
- XIII Malicious explosion 2 (RCW 70.74.280(2))
 Malicious placement of an explosive 1 (RCW 70.74.270(1))
- XII Assault 1 (RCW 9A.36.011)
 Assault of a Child 1 (RCW 9A.36.120)
 Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a))
 Rape 1 (RCW 9A.44.040)
 Rape of a Child 1 (RCW 9A.44.073)

- XI Manslaughter 1 (RCW 9A.32.060)
 - Rape 2 (RCW 9A.44.050)
 - Rape of a Child 2 (RCW 9A.44.076)
- X Child Molestation 1 (RCW 9A.44.083)
 - Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))
 - Kidnapping 1 (RCW 9A.40.020)
 - Leading Organized Crime (RCW 9A.82.060(1)(a))
 - Malicious explosion 3 (RCW 70.74.280(3))
 - Sexually Violent Predator Escape (RCW 9A.76.115)
- IX Assault of a Child 2 (RCW 9A.36.130)
 - Explosive devices prohibited (RCW 70.74.180)
 - Hit and Run—Death (RCW 46.52.020(4)(a))
 - Homicide by Watercraft, by being under the influence of intoxicating liquor or any drug (RCW 79A.60.050)
 - Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))
 - Malicious placement of an explosive 2 (RCW 70.74.270(2))
 - Robbery 1 (RCW 9A.56.200)
 - Sexual Exploitation (RCW 9.68A.040)
 - Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)
- VIII Arson 1 (RCW 9A.48.020)
 - Homicide by Watercraft, by the operation of any vessel in a reckless manner (RCW 79A.60.050)
 - Manslaughter 2 (RCW 9A.32.070)
 - Promoting Prostitution 1 (RCW 9A.88.070)
 - Theft of Ammonia (RCW 69.55.010)

- Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)
- VII Burglary 1 (RCW 9A.52.020)
- Child Molestation 2 (RCW 9A.44.086)
- Civil Disorder Training (RCW 9A.48.120)
- Dealing in depictions of minor engaged in sexually explicit conduct (RCW 9.68A.050)
- Drive-by Shooting (RCW 9A.36.045)
- Homicide by Watercraft, by disregard for the safety of others (RCW 79A.60.050)
- Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1)(b) and (c))
- Introducing Contraband 1 (RCW 9A.76.140)
- Malicious placement of an explosive 3 (RCW 70.74.270(3))
- Sending, bringing into state depictions of minor engaged in sexually explicit conduct (RCW 9.68A.060)
- Unlawful Possession of a Firearm in the first degree (RCW 9.41.040(1)(a))
- Use of a Machine Gun in Commission of a Felony (RCW 9.41.225)
- Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)
- VI Bail Jumping with Murder 1 (RCW 9A.76.170(3)(a))
- Bribery (RCW 9A.68.010)
- Incest 1 (RCW 9A.64.020(1))
- Intimidating a Judge (RCW 9A.72.160)
- Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)
- Malicious placement of an imitation device 2 (RCW 70.74.272(1)(b))

- Rape of a Child 3 (RCW 9A.44.079)
- Theft of a Firearm (RCW 9A.56.300)
- Unlawful Storage of Ammonia (RCW 69.55.020)
- V Abandonment of dependent person 1 (RCW 9A.42.060)
- Advancing money or property for extortionate extension of credit (RCW 9A.82.030)
- Bail Jumping with class A Felony (RCW 9A.76.170(3)(b))
- Child Molestation 3 (RCW 9A.44.089)
- Criminal Mistreatment 1 (RCW 9A.42.020)
- Custodial Sexual Misconduct 1 (RCW 9A.44.160)
- Domestic Violence Court Order Violation (RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or 74.34.145)
- Extortion 1 (RCW 9A.56.120)
- Extortionate Extension of Credit (RCW 9A.82.020)
- Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)
- Incest 2 (RCW 9A.64.020(2))
- Kidnapping 2 (RCW 9A.40.030)
- Perjury 1 (RCW 9A.72.020)
- Persistent prison misbehavior (RCW 9.94.070)
- Possession of a Stolen Firearm (RCW 9A.56.310)
- Rape 3 (RCW 9A.44.060)
- Rendering Criminal Assistance 1 (RCW 9A.76.070)
- Sexual Misconduct with a Minor 1 (RCW 9A.44.093)

- Sexually Violating Human Remains
(RCW 9A.44.105)
- Stalking (RCW 9A.46.110)
- Taking Motor Vehicle Without
Permission 1 (RCW 9A.56.070(1))
- IV Arson 2 (RCW 9A.48.030)
- Assault 2 (RCW 9A.36.021)
- Assault by Watercraft (RCW
79A.60.060)
- Bribing a Witness/Bribe Received by
Witness (RCW 9A.72.090,
9A.72.100)
- Cheating 1 (RCW 9.46.1961)
- Commercial Bribery (RCW 9A.68.060)
- Counterfeiting (RCW 9.16.035(4))
- Endangerment with a Controlled
Substance (RCW 9A.42.100)
- Escape 1 (RCW 9A.76.110)
- Hit and Run—Injury (RCW
46.52.020(4)(b))
- Hit and Run with Vessel—Injury
Accident (RCW 79A.60.200(3))
- Identity Theft 1 (RCW 9.35.020(2)(a))
- Indecent Exposure to Person Under Age
Fourteen (subsequent sex offense)
(RCW 9A.88.010)
- Influencing Outcome of Sporting Event
(RCW 9A.82.070)
- Knowingly Trafficking in Stolen
Property (RCW 9A.82.050(2))
- Malicious Harassment (RCW
9A.36.080)
- Residential Burglary (RCW 9A.52.025)
- Robbery 2 (RCW 9A.56.210)
- Theft of Livestock 1 (RCW 9A.56.080)
- Threats to Bomb (RCW 9.61.160)
- Use of Proceeds of Criminal
Profiteering (RCW 9A.82.080 (1)
and (2))

Vehicular Assault, by being under the influence of intoxicating liquor or any drug, or by the operation or driving of a vehicle in a reckless manner (RCW 46.61.522)

Willful Failure to Return from Furlough (RCW 72.66.060)

III Abandonment of dependent person 2 (RCW 9A.42.070)

Assault 3 (RCW 9A.36.031)

Assault of a Child 3 (RCW 9A.36.140)

Bail Jumping with class B or C Felony (RCW 9A.76.170(3)(c))

Burglary 2 (RCW 9A.52.030)

Communication with a Minor for Immoral Purposes (RCW 9.68A.090)

Criminal Gang Intimidation (RCW 9A.46.120)

Criminal Mistreatment 2 (RCW 9A.42.030)

Custodial Assault (RCW 9A.36.100)

Escape 2 (RCW 9A.76.120)

Extortion 2 (RCW 9A.56.130)

Harassment (RCW 9A.46.020)

Intimidating a Public Servant (RCW 9A.76.180)

Introducing Contraband 2 (RCW 9A.76.150)

Malicious Injury to Railroad Property (RCW 81.60.070)

Patronizing a Juvenile Prostitute (RCW 9.68A.100)

Perjury 2 (RCW 9A.72.030)

Possession of Incendiary Device (RCW 9.40.120)

Possession of Machine Gun or Short-Barreled Shotgun or Rifle (RCW 9.41.190)

- Promoting Prostitution 2 (RCW 9A.88.080)
- Recklessly Trafficking in Stolen Property (RCW 9A.82.050(1))
- Securities Act violation (RCW 21.20.400)
- Tampering with a Witness (RCW 9A.72.120)
- Telephone Harassment (subsequent conviction or threat of death) (RCW 9.61.230)
- Theft of Livestock 2 (RCW 9A.56.080)
- Unlawful Imprisonment (RCW 9A.40.040)
- Unlawful possession of firearm in the second degree (RCW 9.41.040(1)(b))
- Vehicular Assault, by the operation or driving of a vehicle with disregard for the safety of others (RCW 46.61.522)
- Willful Failure to Return from Work Release (RCW 72.65.070)
- II Computer Trespass 1 (RCW 9A.52.110)
- Counterfeiting (RCW 9.16.035(3))
- Escape from Community Custody (RCW 72.09.310)
- Health Care False Claims (RCW 48.80.030)
- Identity Theft 2 (RCW 9.35.020(2)(b))
- Improperly Obtaining Financial Information (RCW 9.35.010)
- Malicious Mischief I (RCW 9A.48.070)
- Possession of Stolen Property 1 (RCW 9A.56.150)
- Theft 1 (RCW 9A.56.030)
- Theft of Rental, Leased, or Lease-purchased Property (valued at one thousand five hundred dollars or more) (RCW 9A.56.096(4))

- Trafficking in Insurance Claims (RCW 48.30A.015)
- Unlawful Practice of Law (RCW 2.48.180)
- Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))
- I Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)
- False Verification for Welfare (RCW 74.08.055)
- Forgery (RCW 9A.60.020)
- Malicious Mischief 2 (RCW 9A.48.080)
- Mineral Trespass (section 2 of this act)
- Possession of Stolen Property 2 (RCW 9A.56.160)
- Reckless Burning 1 (RCW 9A.48.040)
- Taking Motor Vehicle Without Permission 2 (RCW 9A.56.070(2))
- Theft 2 (RCW 9A.56.040)
- Theft of Rental, Leased, or Lease-purchased Property (valued at two hundred fifty dollars or more but less than one thousand five hundred dollars) (RCW 9A.56.096(4))
- Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)
- Unlawful Use of Food Stamps (RCW 9.91.140 (2) and (3))
- Vehicle Prowl 1 (RCW 9A.52.095)

Sec. 6. RCW 13.40.0357 and 2002 c 324 s 3 and 2002 c 175 s 20 are each reenacted and amended to read as follows:

DESCRIPTION AND OFFENSE CATEGORY

		JUVENILE DISPOSITION
JUVENILE DISPOSITION		CATEGORY FOR
OFFENSE CATEGORY	DESCRIPTION (RCW CITATION)	ATTEMPT, BAILJUMP, CONSPIRACY, OR SOLICITATION

.....

Arson and Malicious Mischief

A	Arson 1 (9A.48.020)	B+
B	Arson 2 (9A.48.030)	C
C	Reckless Burning 1 (9A.48.040)	D
D	Reckless Burning 2 (9A.48.050)	E
B	Malicious Mischief 1 (9A.48.070)	C
C	Malicious Mischief 2 (9A.48.080)	D
D	Malicious Mischief 3 (<\$50 is E class) (9A.48.090)	E
E	Tampering with Fire Alarm Apparatus (9.40.100)	E
A	Possession of Incendiary Device (9.40.120)	B+

**Assault and Other Crimes Involving
Physical Harm**

A	Assault 1 (9A.36.011)	B+
B+	Assault 2 (9A.36.021)	C+
C+	Assault 3 (9A.36.031)	D+
D+	Assault 4 (9A.36.041)	E
B+	Drive-By Shooting (9A.36.045)	C+
D+	Reckless Endangerment (9A.36.050)	E
C+	Promoting Suicide Attempt (9A.36.060)	D+
D+	Coercion (9A.36.070)	E
C+	Custodial Assault (9A.36.100)	D+

Burglary and Trespass

B+	Burglary 1 (9A.52.020)	C+
B	Residential Burglary (9A.52.025)	C
B	Burglary 2 (9A.52.030)	C
D	Burglary Tools (Possession of) (9A.52.060)	E
D	Criminal Trespass 1 (9A.52.070)	E
E	Criminal Trespass 2 (9A.52.080)	E
<u>C</u>	<u>Mineral Trespass (Section 2 of this act)</u>	<u>C</u>
C	Vehicle Prowling 1 (9A.52.095)	D
D	Vehicle Prowling 2 (9A.52.100)	E

Drugs

E	Possession/Consumption of Alcohol (66.44.270)	E
C	Illegally Obtaining Legend Drug (69.41.020)	D
C+	Sale, Delivery, Possession of Legend Drug with Intent to Sell (69.41.030)	D+
E	Possession of Legend Drug (69.41.030)	E
B+	Violation of Uniform Controlled Substances Act - Narcotic, Methamphetamine, or Flunitrazepam Sale (69.50.401(a)(1) (i) or (ii))	B+

C	Violation of Uniform Controlled Substances Act - Nonnarcotic Sale (69.50.401(a)(1)(iii))	C
E	Possession of Marihuana <40 grams (69.50.401(e))	E
C	Fraudulently Obtaining Controlled Substance (69.50.403)	C
C+	Sale of Controlled Substance for Profit (69.50.410)	C+
E	Unlawful Inhalation (9.47A.020)	E
B	Violation of Uniform Controlled Substances Act - Narcotic, Methamphetamine, or Flunitrazepam Counterfeit Substances (69.50.401(b)(1) (i) or (ii))	B
C	Violation of Uniform Controlled Substances Act - Nonnarcotic Counterfeit Substances (69.50.401(b)(1) (iii), (iv), (v))	C
C	Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.401(d))	C
C	Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.401(c))	C
Firearms and Weapons		
B	Theft of Firearm (9A.56.300)	C
B	Possession of Stolen Firearm (9A.56.310)	C
E	Carrying Loaded Pistol Without Permit (9.41.050)	E
C	Possession of Firearms by Minor (<18) (9.41.040(1)(b)(iii))	C
D+	Possession of Dangerous Weapon (9.41.250)	E
D	Intimidating Another Person by use of Weapon (9.41.270)	E
Homicide		
A+	Murder 1 (9A.32.030)	A
A+	Murder 2 (9A.32.050)	B+
B+	Manslaughter 1 (9A.32.060)	C+
C+	Manslaughter 2 (9A.32.070)	D+
B+	Vehicular Homicide (46.61.520)	C+
Kidnapping		
A	Kidnap 1 (9A.40.020)	B+
B+	Kidnap 2 (9A.40.030)	C+
C+	Unlawful Imprisonment (9A.40.040)	D+

Obstructing Governmental Operation

D	Obstructing a Law Enforcement Officer (9A.76.020)	E
E	Resisting Arrest (9A.76.040)	E
B	Introducing Contraband 1 (9A.76.140)	C
C	Introducing Contraband 2 (9A.76.150)	D
E	Introducing Contraband 3 (9A.76.160)	E
B+	Intimidating a Public Servant (9A.76.180)	C+
B+	Intimidating a Witness (9A.72.110)	C+

Public Disturbance

C+	Riot with Weapon (9A.84.010)	D+
D+	Riot Without Weapon (9A.84.010)	E
E	Failure to Disperse (9A.84.020)	E
E	Disorderly Conduct (9A.84.030)	E

Sex Crimes

A	Rape 1 (9A.44.040)	B+
A-	Rape 2 (9A.44.050)	B+
C+	Rape 3 (9A.44.060)	D+
A-	Rape of a Child 1 (9A.44.073)	B+
B+	Rape of a Child 2 (9A.44.076)	C+
B	Incest 1 (9A.64.020(1))	C
C	Incest 2 (9A.64.020(2))	D
D+	Indecent Exposure (Victim <14) (9A.88.010)	E
E	Indecent Exposure (Victim 14 or over) (9A.88.010)	E
B+	Promoting Prostitution 1 (9A.88.070)	C+
C+	Promoting Prostitution 2 (9A.88.080)	D+
E	O & A (Prostitution) (9A.88.030)	E
B+	Indecent Liberties (9A.44.100)	C+
A-	Child Molestation 1 (9A.44.083)	B+
B	Child Molestation 2 (9A.44.086)	C+

Theft, Robbery, Extortion, and Forgery

B	Theft 1 (9A.56.030)	C
C	Theft 2 (9A.56.040)	D
D	Theft 3 (9A.56.050)	E
B	Theft of Livestock (9A.56.080)	C
C	Forgery (9A.60.020)	D
A	Robbery 1 (9A.56.200)	B+
B+	Robbery 2 (9A.56.210)	C+
B+	Extortion 1 (9A.56.120)	C+
C+	Extortion 2 (9A.56.130)	D+
C	Identity Theft 1 (9.35.020(2)(a))	D
D	Identity Theft 2 (9.35.020(2)(b))	E

D	Improperly Obtaining Financial Information (9.35.010)	E
B	Possession of Stolen Property 1 (9A.56.150)	C
C	Possession of Stolen Property 2 (9A.56.160)	D
D	Possession of Stolen Property 3 (9A.56.170)	E
C	Taking Motor Vehicle Without Permission 1 and 2 (9A.56.070 (1) and (2))	D
Motor Vehicle Related Crimes		
E	Driving Without a License (46.20.005)	E
B+	Hit and Run - Death (46.52.020(4)(a))	C+
C	Hit and Run - Injury (46.52.020(4)(b))	D
D	Hit and Run-Attended (46.52.020(5))	E
E	Hit and Run-Unattended (46.52.010)	E
C	Vehicular Assault (46.61.522)	D
C	Attempting to Elude Pursuing Police Vehicle (46.61.024)	D
E	Reckless Driving (46.61.500)	E
D	Driving While Under the Influence (46.61.502 and 46.61.504)	E
Other		
B	Bomb Threat (9.61.160)	C
C	Escape 1 ¹ (9A.76.110)	C
C	Escape 2 ¹ (9A.76.120)	C
D	Escape 3 (9A.76.130)	E
E	Obscene, Harassing, Etc., Phone Calls (9.61.230)	E
A	Other Offense Equivalent to an Adult Class A Felony	B+
B	Other Offense Equivalent to an Adult Class B Felony	C
C	Other Offense Equivalent to an Adult Class C Felony	D
D	Other Offense Equivalent to an Adult Gross Misdemeanor	E
E	Other Offense Equivalent to an Adult Misdemeanor	E
V	Violation of Order of Restitution, Community Supervision, or Confinement (13.40.200) ²	V

¹Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses and the standard range is established as follows:

1st escape or attempted escape during 12-month period - 4 weeks confinement

2nd escape or attempted escape during 12-month period - 8 weeks confinement

3rd and subsequent escape or attempted escape during 12-month period - 12 weeks confinement

²If the court finds that a respondent has violated terms of an order, it may impose a penalty of up to 30 days of confinement.

JUVENILE SENTENCING STANDARDS

This schedule must be used for juvenile offenders. The court may select sentencing option A, B, or C.

OPTION A							
JUVENILE OFFENDER SENTENCING GRID							
STANDARD RANGE							
A+	180 WEEKS TO AGE 21 YEARS						
A	103 WEEKS TO 129 WEEKS						
A-	15-36 WEEKS EXCEPT 30-40 WEEKS FOR 15-17 YEAR OLDS	52-65 WEEKS	80-100 WEEKS	103-129 WEEKS			
Current Offense Category	B+	15-36 WEEKS	52-65 WEEKS	80-100 WEEKS	103-129 WEEKS		
B	LOCAL SANCTIONS (LS)	15-36 WEEKS		52-65 WEEKS			
C+	LS	15-36 WEEKS					
C	LS	15-36 WEEKS					
D+	LS	Local Sanctions: 0 to 30 Days 0 to 12 Months Community Supervision 0 to 150 Hours Community Restitution \$0 to \$500 Fine					
D	LS	Local Sanctions: 0 to 30 Days 0 to 12 Months Community Supervision 0 to 150 Hours Community Restitution \$0 to \$500 Fine					
E	LS	Local Sanctions: 0 to 30 Days 0 to 12 Months Community Supervision 0 to 150 Hours Community Restitution \$0 to \$500 Fine					
		0	1	2	3	4	or more
		PRIOR ADJUDICATIONS					

NOTE: References in the grid to days or weeks mean periods of confinement.

(1) The vertical axis of the grid is the current offense category. The current offense category is determined by the offense of adjudication.

(2) The horizontal axis of the grid is the number of prior adjudications included in the juvenile’s criminal history. Each prior felony adjudication shall count as one point. Each prior violation, misdemeanor, and gross misdemeanor adjudication shall count as 1/4 point. Fractional points shall be rounded down.

(3) The standard range disposition for each offense is determined by the intersection of the column defined by the prior adjudications and the row defined by the current offense category.

(4) RCW 13.40.180 applies if the offender is being sentenced for more than one offense.

(5) A current offense that is a violation is equivalent to an offense category of E. However, a disposition for a violation shall not include confinement.

OR

OPTION B

CHEMICAL DEPENDENCY DISPOSITION ALTERNATIVE

If the juvenile offender is subject to a standard range disposition of local sanctions or 15 to 36 weeks of confinement and has not committed an A- or B+ offense, the court may impose a disposition under RCW 13.40.160(4) and 13.40.165.

OR

OPTION C

MANIFEST INJUSTICE

If the court determines that a disposition under option A or B would effectuate a manifest injustice, the court shall impose a disposition outside the standard range under RCW 13.40.160(2).

NEW SECTION. Sec. 7. Section 4 of this act expires July 1, 2004.

NEW SECTION. Sec. 8. Section 5 of this act takes effect July 1, 2004.

NEW SECTION. Sec. 9. Sections 1 through 3 of this act are each added to chapter 78.44 RCW.

Passed by the House April 24, 2003.

Passed by the Senate April 8, 2003.

Approved by the Governor May 16, 2003.

Filed in Office of Secretary of State May 16, 2003.

CHAPTER 336

[House Bill 1972]

RETAIL FISH SELLERS

AN ACT Relating to the accounting of the commercial harvest of food fish; adding a new section to chapter 77.15 RCW; and prescribing penalties.

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

NEW SECTION. Sec. 1. A new section is added to chapter 77.15 RCW to read as follows:

Since violation of rules of the department relating to the accounting of the commercial harvest of food fish, commercialized game fish, and shellfish result in damage to the resources of the state, persons selling such fish and shellfish at retail, including but not limited to stores, markets, and restaurants, must maintain sufficient records for the department to be able to ascertain the origin of the fish and shellfish in their possession.

(1) A retail fish seller is guilty of retail fish seller's failure to account for commercial harvest if the retail seller sells fish or shellfish at retail, the fish or shellfish were required to be entered on a Washington state fish receiving ticket, the seller is not a wholesale fish dealer or fisher selling under a direct retail sale endorsement, and the seller fails to maintain sufficient records at the location where the fish or shellfish are being sold to determine the following:

- (a) The name of the wholesale fish dealer or fisher selling under a direct retail sale endorsement from whom the fish were purchased;
- (b) The wholesale fish dealer's license number or the number of the fisher's sale under a direct retail sale endorsement;
- (c) The fish receiving ticket number documenting original receipt, if known;
- (d) The date of purchase; and
- (e) The amount of fish or shellfish originally purchased from the wholesale dealer or fisher selling under a direct retail sale endorsement.

(2) A retail fish seller's failure to account for commercial harvest is a misdemeanor.

Passed by the House April 24, 2003.

Passed by the Senate April 11, 2003.

Approved by the Governor May 16, 2003.

Filed in Office of Secretary of State May 16, 2003.

CHAPTER 337

[Substitute House Bill 1409]

LITTERING

AN ACT Relating to littering; amending RCW 70.93.030, 70.93.060, 7.80.120, 46.61.645, and 36.32.120; creating a new section; repealing RCW 70.93.100; and prescribing penalties.

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

NEW SECTION. Sec. 1. (1) The legislature finds that the littering of potentially dangerous products poses a greater danger to the public safety than other classes of litter. Broken glass, human waste, and other dangerous materials along roadways, within parking lots, and on pedestrian, bicycle, and recreation trails elevates the risk to public safety, such as vehicle tire punctures, and the risk to the community volunteers who spend their time gathering and properly disposing of the litter left behind by others. As such, the legislature finds that a higher penalty should be imposed on those who improperly dispose of potentially dangerous products, such as is imposed on those who improperly dispose of tobacco products.

(2) The legislature further finds that litter is a nuisance, and, in order to alleviate such a nuisance, counties must be provided statutory authority to

declare what shall be a nuisance, to abate a nuisance, and to impose and collect fines upon parties who may create, cause, or commit a nuisance.

Sec. 2. RCW 70.93.030 and 2000 c 154 s 1 are each amended to read as follows:

~~((As used in))~~ The definitions in this section apply throughout this chapter unless the context ~~((indicates))~~ clearly requires otherwise~~((;))~~.

(1) "Conveyance" means a boat, airplane, or vehicle~~((;))~~.

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

(3) "Director" means the director of the department of ecology~~((;))~~.

(4) "Disposable package or container" means all packages or containers defined as such by rules ~~((and regulations))~~ adopted by the department of ecology~~((;))~~.

(5) "Junk vehicle" has the same meaning as defined in RCW 46.55.010~~((;))~~.

(6) "Litter" means all waste material including but not limited to disposable packages or containers thrown or deposited as herein prohibited and solid waste that is illegally dumped, but not including the wastes of the primary processes of mining, logging, sawmilling, farming, or manufacturing~~((;))~~. "Litter" includes the material described in subsection (10) of this section as "potentially dangerous litter."

(7) "Litter bag" means a bag, sack, or other container made of any material which is large enough to serve as a receptacle for litter inside the vehicle or watercraft of any person. It is not necessarily limited to the state approved litter bag but must be similar in size and capacity~~((;))~~.

(8) "Litter receptacle" means those containers adopted by the department of ecology and which may be standardized as to size, shape, capacity, and color and which shall bear the state anti-litter symbol, as well as any other receptacles suitable for the depositing of litter~~((;))~~.

(9) "Person" means any political subdivision, government agency, municipality, industry, public or private corporation, copartnership, association, firm, individual, or other entity whatsoever~~((;))~~.

(10) "Potentially dangerous litter" means litter that is likely to injure a person or cause damage to a vehicle or other property. "Potentially dangerous litter" means:

(a) Cigarettes, cigars, or other tobacco products that are capable of starting a fire;

(b) Glass;

(c) A container or other product made predominantly or entirely of glass;

(d) A hypodermic needle or other medical instrument designed to cut or pierce;

(e) Raw human waste, including soiled baby diapers, regardless of whether or not the waste is in a container of any sort; and

(f) Nails or tacks.

(11) "Public place" means any area that is used or held out for use by the public whether owned or operated by public or private interests~~((;))~~.

~~((+))~~ (12) "Recycling" means transforming or remanufacturing waste materials into a finished product for use other than landfill disposal or incineration~~((;))~~.

~~((+2))~~ (13) "Recycling center" means a central collection point for recyclable materials~~((;))~~.

~~((13))~~ (14) "To litter" means a single or cumulative act of disposing of litter~~((;))~~.

~~((14))~~ (15) "Vehicle" includes every device capable of being moved upon a public highway and in, upon, or by which any persons or property is or may be transported or drawn upon a public highway, excepting devices moved by human or animal power or used exclusively upon stationary rails or tracks~~((;))~~.

~~((15))~~ (16) "Waste reduction" means reducing the amount or toxicity of waste generated or reusing materials~~((;))~~.

~~((16))~~ (17) "Watercraft" means any boat, ship, vessel, barge, or other floating craft.

Sec. 3. RCW 70.93.060 and 2002 c 175 s 45 are each amended to read as follows:

(1) It is a violation of this section to abandon a junk vehicle upon any property. In addition, no person shall throw, drop, deposit, discard, or otherwise dispose of litter upon any public property in the state or upon private property in this state not owned by him or her or in the waters of this state whether from a vehicle or otherwise including but not limited to any public highway, public park, beach, campground, forest land, recreational area, trailer park, highway, road, street, or alley except:

(a) When the property is designated by the state or its agencies or political subdivisions for the disposal of garbage and refuse, and the person is authorized to use such property for that purpose;

(b) Into a litter receptacle in a manner that will prevent litter from being carried away or deposited by the elements upon any part of the private or public property or waters.

(2)(a) Except as provided in subsection (4) of this section, it is a class 3 civil infraction as provided in RCW 7.80.120 for a person to litter in an amount less than or equal to one cubic foot.

(b) It is a misdemeanor for a person to litter in an amount greater than one cubic foot but less than one cubic yard. The person shall also pay a litter cleanup restitution payment equal to twice the actual cost of cleanup, or fifty dollars per cubic foot of litter, whichever is greater. The court shall distribute one-half of the restitution payment to the landowner and one-half of the restitution payment to the law enforcement agency investigating the incident. The court may, in addition to or in lieu of part or all of the cleanup restitution payment, order the person to pick up and remove litter from the property, with prior permission of the legal owner or, in the case of public property, of the agency managing the property. The court may suspend or modify the litter cleanup restitution payment for a first-time offender under this section, if the person cleans up and properly disposes of the litter.

(c) It is a gross misdemeanor for a person to litter in an amount of one cubic yard or more. The person shall also pay a litter cleanup restitution payment equal to twice the actual cost of cleanup, or one hundred dollars per cubic foot of litter, whichever is greater. The court shall distribute one-half of the restitution payment to the landowner and one-half of the restitution payment to the law enforcement agency investigating the incident. The court may, in addition to or in lieu of part or all of the cleanup restitution payment, order the person to pick up and remove litter from the property, with prior permission of the legal owner or, in the case of public property, of the agency managing the property. The

court may suspend or modify the litter cleanup restitution payment for a first-time offender under this section, if the person cleans up and properly disposes of the litter.

(d) If a junk vehicle is abandoned in violation of this section, RCW 46.55.230 governs the vehicle's removal, disposal, and sale, and the penalties that may be imposed against the person who abandoned the vehicle.

(3) If the violation occurs in a state park, the court shall, in addition to any other penalties assessed, order the person to perform twenty-four hours of community restitution in the state park where the violation occurred if the state park has stated an intent to participate as provided in RCW 79A.05.050.

(4) It is a class 1 civil infraction as provided in RCW 7.80.120 for a person to discard, in violation of this section, ~~((a cigarette, cigar, or other tobacco product that is capable of starting a fire))~~ potentially dangerous litter in any amount.

Sec. 4. RCW 7.80.120 and 1997 c 159 s 2 are each amended to read as follows:

(1) A person found to have committed a civil infraction shall be assessed a monetary penalty.

(a) The maximum penalty and the default amount for a class 1 civil infraction shall be two hundred fifty dollars, not including statutory assessments, except for an infraction of state law involving ~~((tobacco products))~~ potentially dangerous litter as specified in RCW 70.93.060(4), in which case the maximum penalty and default amount is five hundred dollars;

(b) The maximum penalty and the default amount for a class 2 civil infraction shall be one hundred twenty-five dollars, not including statutory assessments;

(c) The maximum penalty and the default amount for a class 3 civil infraction shall be fifty dollars, not including statutory assessments; and

(d) The maximum penalty and the default amount for a class 4 civil infraction shall be twenty-five dollars, not including statutory assessments.

(2) The supreme court shall prescribe by rule the conditions under which local courts may exercise discretion in assessing fines for civil infractions.

(3) Whenever a monetary penalty is imposed by a court under this chapter it is immediately payable. If the person is unable to pay at that time the court may grant an extension of the period in which the penalty may be paid. If the penalty is not paid on or before the time established for payment, the court may proceed to collect the penalty in the same manner as other civil judgments and may notify the prosecuting authority of the failure to pay.

(4) The court may also order a person found to have committed a civil infraction to make restitution.

Sec. 5. RCW 46.61.645 and 1965 ex.s. c 155 s 77 are each amended to read as follows:

(1) ~~((No person shall throw or deposit upon any highway any glass bottle, glass, nails, tacks, wire, cans or any other substance likely to injure any person, animal or vehicle upon such highway.~~

(2)) Any person who drops, or permits to be dropped or thrown, upon any highway any ~~((destructive or injurious))~~ material shall immediately remove the same or cause it to be removed.

~~((3))~~ (2) Any person removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from such vehicle.

Sec. 6. RCW 36.32.120 and 1994 c 301 s 8 are each amended to read as follows:

The legislative authorities of the several counties shall:

(1) Provide for the erection and repairing of court houses, jails, and other necessary public buildings for the use of the county;

(2) Lay out, discontinue, or alter county roads and highways within their respective counties, and do all other necessary acts relating thereto according to law, except within cities and towns which have jurisdiction over the roads within their limits;

(3) License and fix the rates of ferriage; grant grocery and other licenses authorized by law to be by them granted at fees set by the legislative authorities which shall not exceed the costs of administration and operation of such licensed activities;

(4) Fix the amount of county taxes to be assessed according to the provisions of law, and cause the same to be collected as prescribed by law;

(5) Allow all accounts legally chargeable against the county not otherwise provided for, and audit the accounts of all officers having the care, management, collection, or disbursement of any money belonging to the county or appropriated to its benefit;

(6) Have the care of the county property and the management of the county funds and business and in the name of the county prosecute and defend all actions for and against the county, and such other powers as are or may be conferred by law;

(7) Make and enforce, by appropriate resolutions or ordinances, all such police and sanitary regulations as are not in conflict with state law, and within the unincorporated area of the county may adopt by reference Washington state statutes and recognized codes and/or compilations printed in book form relating to the construction of buildings, the installation of plumbing, the installation of electric wiring, health, or other subjects, and may adopt such codes and/or compilations or portions thereof, together with amendments thereto, or additions thereto: PROVIDED, That except for Washington state statutes, there shall be filed in the county auditor's office one copy of such codes and compilations ten days prior to their adoption by reference, and additional copies may also be filed in library or city offices within the county as deemed necessary by the county legislative authority: PROVIDED FURTHER, That no such regulation, code, compilation, and/or statute shall be effective unless before its adoption, a public hearing has been held thereon by the county legislative authority of which at least ten days' notice has been given. Any violation of such regulations, ordinances, codes, compilations, and/or statutes or resolutions shall constitute a misdemeanor or a civil violation subject to a monetary penalty: PROVIDED FURTHER, That violation of a regulation, ordinance, code, compilation, and/or statute relating to traffic including parking, standing, stopping, and pedestrian offenses is a traffic infraction, except that violation of a regulation, ordinance, code, compilation, and/or statute equivalent to those provisions of Title 46 RCW set forth in RCW 46.63.020 remains a misdemeanor. However, the punishment for any criminal ordinance shall be the same as the punishment provided in state

law for the same crime and no act that is a state crime may be made a civil violation. The notice must set out a copy of the proposed regulations or summarize the content of each proposed regulation; or if a code is adopted by reference the notice shall set forth the full official title and a statement describing the general purpose of such code. For purposes of this subsection, a summary shall mean a brief description which succinctly describes the main points of the proposed regulation. When the county publishes a summary, the publication shall include a statement that the full text of the proposed regulation will be mailed upon request. An inadvertent mistake or omission in publishing the text or a summary of the content of a proposed regulation shall not render the regulation invalid if it is adopted. The notice shall also include the day, hour, and place of hearing and must be given by publication in the newspaper in which legal notices of the county are printed;

(8) Have power to compound and release in whole or in part any debt due to the county when in their opinion the interest of their county will not be prejudiced thereby, except in cases where they or any of them are personally interested;

(9) Have power to administer oaths or affirmations necessary in the discharge of their duties and commit for contempt any witness refusing to testify before them with the same power as district judges;

(10) Have power to declare by ordinance what shall be deemed a nuisance within the county, including but not limited to "litter" and "potentially dangerous litter" as defined in RCW 70.93.030; to prevent, remove, and abate a nuisance at the expense of the parties creating, causing, or committing the nuisance; and to levy a special assessment on the land or premises on which the nuisance is situated to defray the cost, or to reimburse the county for the cost of abating it. This assessment shall constitute a lien against the property which shall be of equal rank with state, county, and municipal taxes.

NEW SECTION. Sec. 7. RCW 70.93.100 (Litter bags—Design and distribution by department authorized—Violations—Penalties) and 1981 c 260 s 15 are each repealed.

Passed by the House April 21, 2003.

Passed by the Senate April 15, 2003.

Approved by the Governor May 16, 2003.

Filed in Office of Secretary of State May 16, 2003.

CHAPTER 338

[Substitute House Bill 1335]

WATER TRAIL RECREATION

AN ACT Relating to the water trail recreation program; amending RCW 79A.05.380, 79A.05.385, and 79A.05.410; creating a new section; and repealing RCW 79A.05.400, 79A.05.405, and 79A.05.420.

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

Sec. 1. RCW 79A.05.380 and 1993 c 182 s 1 are each amended to read as follows:

The legislature recognizes the increase in water-oriented recreation by users of human and wind-powered, beachable vessels such as kayaks, canoes, or day

sailors on Washington's waters. These recreationists frequently require overnight camping facilities along the shores of public or private beaches. The legislature now creates a water trail recreation program, to be administered by the Washington state parks and recreation commission. The legislature recognizes that the effort to develop water trail sites is a continuing need and that the commission provides beneficial expertise and consultation to water trail user groups, agencies, and private landowners for the existing Cascadia marine trail and Willapa Bay water trail.

Sec. 2. RCW 79A.05.385 and 1993 c 182 s 2 are each amended to read as follows:

In addition to its other powers, duties, and functions, the commission may:

(1) Plan, construct, and maintain suitable facilities for water trail activities on lands administered or acquired by the commission or as authorized on lands administered by tribes or other public agencies or private landowners by agreement.

~~(2) ((Provide and issue, upon payment of the proper fee, with the assistance of those authorized agents as may be necessary for the convenience of the public, water trail permits to utilize designated water trail facilities. The commission may, after consultation with the water trail advisory committee, adopt rules authorizing reciprocity of water trail permits provided by another state or Canadian province, but only to the extent that a similar exemption or provision for water trail permits is issued by that state or province.~~

~~(3))~~ (3) Compile, publish, distribute, and charge a fee for maps or other forms of public information indicating areas and facilities suitable for water trail activities.

~~((4))~~ (4) Contract with a public agency, private entity, or person for the actual conduct of these duties.

~~((5))~~ (5) Work with individuals or organizations who wish to volunteer their time to support the water trail recreation program.

(5) Provide expertise and consultation to individuals, agencies, and organizations in the continued development of water trail sites in this state.

Sec. 3. RCW 79A.05.410 and 1993 c 182 s 7 are each amended to read as follows:

The commission may~~((, after consultation with the water trail advisory committee,))~~ adopt rules to administer the water trail program and facilities on areas owned or administered by the commission. Where water trail facilities administered by other public or private entities are incorporated into the water trail system, the rules adopted by those entities shall prevail. The commission is not responsible or liable for enforcement of these alternative rules.

NEW SECTION. Sec. 4. Any unspent balance of funds in the water trail program account created in RCW 79A.05.405 as of June 30, 2003, must be transferred to the state parks renewal and stewardship account created in RCW 79A.05.215. All receipts from sales of materials under RCW 79A.05.385 and all monetary civil penalties collected under RCW 79A.05.415 must be deposited in the state parks renewal and stewardship account. Any gifts, grants, donations, or moneys from any source received by the commission for the water trail program must also be deposited in the state parks renewal and stewardship account.

Funds transferred or deposited into the state parks renewal and stewardship account under this section must be used solely for water trail program purposes.

NEW SECTION. Sec. 5. The following acts or parts of acts are each repealed:

(1) RCW 79A.05.400 (Water trail recreation program—Permits) and 1993 c 182 s 5;

(2) RCW 79A.05.405 (Water trail recreation program—Account created) and 2000 c 11 s 40 & 1993 c 182 s 6; and

(3) RCW 79A.05.420 (Water trail advisory committee) and 2000 c 11 s 41, 1994 c 264 s 21, & 1993 c 182 s 9.

Passed by the House March 12, 2003.

Passed by the Senate April 26, 2003.

Approved by the Governor May 16, 2003.

Filed in Office of Secretary of State May 16, 2003.

CHAPTER 339

[Engrossed House Bill 2146]

WOOD BIOMASS FUEL—TAX INCENTIVES

AN ACT Relating to tax incentives for wood biomass fuel production, distribution, and retail sale; amending RCW 82.29A.135 and 82.04.260; adding a new section to chapter 84.36 RCW; adding a new section to chapter 82.04 RCW; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; adding a new chapter to Title 82 RCW; creating new sections; providing effective dates; providing expiration dates; and declaring an emergency.

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

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

(1) "Applicant" means a person applying for a tax deferral under this chapter.

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

(3) "Eligible area" means a county with fewer than one hundred persons per square mile as determined annually by the office of financial management and published by the department effective for the period July 1st through June 30th, or a county that has a population of less than two hundred twenty-five thousand as determined by the office of financial management and has an area greater than two hundred twenty-five square miles.

(4)(a) "Eligible investment project" means an investment project in an eligible area.

(b) The lessor or owner of a qualified building is not eligible for a deferral unless the underlying ownership of the buildings, machinery, and equipment vests exclusively in the same person, or unless the lessor by written contract agrees to pass the economic benefit of the deferral to the lessee in the form of reduced rent payments.

(c) "Eligible investment project" does not include any portion of an investment project undertaken by a light and power business as defined in RCW 82.16.010(5), other than that portion of a cogeneration project that is used to generate power for consumption within the manufacturing site of which the cogeneration project is an integral part, or investment projects which have already received deferrals under this chapter.

(5) "Investment project" means an investment in qualified buildings or qualified machinery and equipment, including labor and services rendered in the planning, installation, and construction of the project.

(6) "Manufacturing" means the same as defined in RCW 82.04.120. "Manufacturing" also includes computer programming, the production of computer software, and other computer-related services, and the activities performed by research and development laboratories and commercial testing laboratories.

(7) "Person" has the meaning given in RCW 82.04.030.

(8) "Qualified buildings" means construction of new structures, and expansion or renovation of existing structures for the purpose of increasing floor space or production capacity used for manufacturing and research and development activities, including plant offices and warehouses or other facilities for the storage of raw material or finished goods if such facilities are an essential or an integral part of a factory, mill, plant, or laboratory used for manufacturing or research and development. If a building is used partly for manufacturing or research and development and partly for other purposes, the applicable tax deferral shall be determined by apportionment of the costs of construction under rules adopted by the department.

(9) "Qualified machinery and equipment" means all new industrial and research fixtures, equipment, and support facilities that are an integral and necessary part of a manufacturing or research and development operation. "Qualified machinery and equipment" includes: Computers; software; data processing equipment; laboratory equipment; manufacturing components such as belts, pulleys, shafts, and moving parts; molds, tools, and dies; operating structures; and all equipment used to control or operate the machinery.

(10) "Recipient" means a person receiving a tax deferral under this chapter.

(11) "Research and development" means the development, refinement, testing, marketing, and commercialization of a product, service, or process before commercial sales have begun. As used in this subsection, "commercial sales" excludes sales of prototypes or sales for market testing if the total gross receipts from such sales of the product, service, or process do not exceed one million dollars.

(12) "Wood biomass fuel" means a pyrolytic liquid fuel or synthesis gas-derived liquid fuel, used in internal combustion engines, and produced from wood, forest, or field residue, or dedicated energy crops that do not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chroma-arsenic.

NEW SECTION. Sec. 2. (1) Application for deferral of taxes under this chapter must be made before initiation of the construction of the investment project or acquisition of equipment or machinery. The application shall be made to the department in a form and manner prescribed by the department. The application shall contain information regarding the location of the investment project, the applicant's average employment in the state for the prior year, estimated or actual new employment related to the project, estimated or actual wages of employees related to the project, estimated or actual costs, time schedules for completion and operation, and other information required by the department.

(2) The department shall rule on the application within sixty days. The department shall keep a running total of all deferrals granted under this chapter during each fiscal biennium.

NEW SECTION. Sec. 3. (1) The department shall issue a sales and use tax deferral certificate for state and local sales and use taxes due under chapters 82.08, 82.12, and 82.14 RCW on each eligible investment project that is located in an eligible area as defined in section 1 of this act, if the investment project is undertaken for the purpose of manufacturing wood biomass fuel.

(2) This section expires July 1, 2009.

NEW SECTION. Sec. 4. (1) For the purposes of this section:

(a) "Eligible area" means a designated community empowerment zone approved under RCW 43.31C.020 or a county containing a community empowerment zone.

(b) "Eligible investment project" means an investment project undertaken for the purpose of manufacturing wood biomass fuel that is located in an eligible area.

(c) "Qualified employment position" means a permanent full-time employee employed in the eligible investment project during the entire year.

(2) In addition to the provisions of section 3 of this act, the department shall issue a sales and use tax deferral certificate for state and local sales and use taxes due under chapters 82.08, 82.12, and 82.14 RCW, on each eligible investment project that is located in an eligible area, if the applicant establishes that at the time the project is operationally complete:

(a) The applicant will hire at least one qualified employment position for each seven hundred fifty thousand dollars of investment on which a deferral is requested; and

(b) The positions will be filled by persons who at the time of hire are residents of the community empowerment zone. As used in this subsection, "resident" means the person makes his or her home in the community empowerment zone. A mailing address alone is insufficient to establish that a person is a resident for the purposes of this section. The persons must be hired after the date the application is filed with the department.

(3) All other provisions and eligibility requirements of this chapter apply to applicants eligible under this section.

(4) The qualified employment position must be filled by the end of the calendar year following the year in which the project is certified as operationally complete. If a person does not meet the requirements for qualified employment positions by the end of the second calendar year following the year in which the project is certified as operationally complete, all deferred taxes are immediately due.

NEW SECTION. Sec. 5. (1) Each recipient of a deferral granted under this chapter after June 30, 2003, shall submit a report to the department on December 31st of the year in which the investment project is certified by the department as having been operationally completed, and on December 31st of each of the seven succeeding calendar years. The report shall contain information, as required by the department, from which the department may determine whether the recipient is meeting the requirements of this chapter. If the recipient fails to

submit a report or submits an inadequate report, the department may declare the amount of deferred taxes outstanding to be immediately assessed and payable.

(2) If, on the basis of a report under this section or other information, the department finds that an investment project is not eligible for tax deferral under this chapter, the amount of deferred taxes outstanding for the project are immediately due. For any taxes that are due, penalties and interest applicable to delinquent excise taxes shall be assessed and imposed for delinquent payments under this chapter. The debt for deferred taxes will not be extinguished by insolvency or other failure of the recipient. Transfer of ownership does not terminate the deferral. The deferral is transferred, subject to the successor meeting the eligibility requirements of this chapter, for the remaining periods of the deferral.

(3) Deferred taxes need not be repaid if the department determines, in accordance with the provisions of subsection (1) of this section, that the recipient has met the requirements of this chapter for the seven calendar years following the certification by the department that the investment project has been operationally completed.

NEW SECTION. Sec. 6. The employment security department shall make, and certify to the department of revenue, all determinations of employment and wages as requested by the department under this chapter.

NEW SECTION. Sec. 7. Chapter 82.32 RCW applies to the administration of this chapter.

NEW SECTION. Sec. 8. Applications, reports, and any other information received by the department under this chapter shall not be confidential and shall be subject to disclosure.

NEW SECTION. Sec. 9. A new section is added to chapter 84.36 RCW to read as follows:

(1) For the purposes of this section, "wood biomass fuel" means a pyrolytic liquid fuel or synthesis gas-derived liquid fuel, used in internal combustion engines, and produced from wood, forest, or field residue, or dedicated energy crops that do not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chroma-arsenic.

(2)(a) All buildings, machinery, equipment, and other personal property which is used primarily for the manufacturing of wood biomass fuel, the land upon which this property is located, and land that is reasonably necessary in the manufacturing of wood biomass fuel, but not land necessary for growing of crops, which together comprise a new manufacturing facility or an addition to an existing manufacturing facility, are exempt from property taxation for the six assessment years following the date on which the facility or the addition to the existing facility becomes operational.

(b) For manufacturing facilities which produce products in addition to wood biomass fuel, the amount of the property tax exemption shall be based upon the annual percentage of the total value of all products manufactured that is the value of the wood biomass fuel manufactured.

(3) Claims for exemptions authorized by this section shall be filed with the county assessor on forms prescribed by the department of revenue and furnished by the assessor. Once filed, the exemption is valid for six years and shall not be renewed. The assessor shall verify and approve claims as the assessor

determines to be justified and in accordance with this section. No claims may be filed after December 31, 2009.

The department of revenue may promulgate such rules, pursuant to chapter 34.05 RCW, as necessary to properly administer this section.

Sec. 10. RCW 82.29A.135 and 1985 c 371 s 3 are each amended to read as follows:

(1) For the purposes of this section((;)):

(a) "Alcohol fuel" means any alcohol made from a product other than petroleum or natural gas, which is used alone or in combination with gasoline or other petroleum products for use as a fuel for motor vehicles, farm implements, and machines or implements of husbandry.

(b) "Wood biomass fuel" means a pyrolytic liquid fuel or synthesis gas-derived liquid fuel, used in internal combustion engines, and produced from wood, forest, or field residue, or dedicated energy crops that do not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chroma-arsenic.

(2)(a) All leasehold interests in buildings, machinery, equipment, and other personal property which is used primarily for the manufacturing of alcohol fuel, wood biomass fuel, the land upon which ((~~sueh~~)) this property is located, and land that is reasonably necessary in the manufacturing of alcohol fuel, wood biomass fuel, but not land necessary for growing of crops, which together comprise a new ((~~aleohot~~)) manufacturing facility or an addition to an existing ((~~aleohot~~)) manufacturing facility, are exempt from leasehold taxes for a period of six years from the date on which the facility or the addition to the existing facility becomes operational.

(b) For ((~~aleohot~~)) manufacturing facilities which produce ((~~aleohot for use as~~)) products in addition to alcohol fuel ((and alcohol used for other purposes)), wood biomass fuel, the amount of the leasehold tax exemption shall be based upon ((~~an annually determined percentage of the total gallons of alcohol produced that is sold and used as alcohol fuel~~)) the annual percentage of the total value of all products manufactured that is the value of the alcohol fuel or wood biomass fuel manufactured.

(3) Claims for exemptions authorized by this section shall be filed with the department of revenue on forms prescribed by the department of revenue and furnished by the department of revenue. Once filed, the exemption is valid for six years and shall not be renewed. The department of revenue shall verify and approve ((~~sueh~~)) claims as the department of revenue determines to be justified and in accordance with this section. No claims may be filed after December 31, ((+992)) 2009.

The department of revenue may promulgate such rules, pursuant to chapter 34.05 RCW, as are necessary to properly administer this section.

Sec. 11. RCW 82.04.260 and 2001 2nd sp.s. c 25 s 2 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of manufacturing:

(a) Wheat into flour, barley into pearl barley, soybeans into soybean oil, canola into canola oil, canola meal, or canola byproducts, 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, oil, canola meal, or canola byproduct manufactured, multiplied by the rate of 0.138 percent;

(b) 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 0.138 percent;

(c) By canning, preserving, freezing, processing, or dehydrating fresh fruits and vegetables, or selling at wholesale fresh fruits and vegetables canned, preserved, frozen, processed, or dehydrated by the seller and sold to purchasers who transport in the ordinary course of business the goods out of this state; 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, processed, or dehydrated multiplied by the rate of 0.138 percent. As proof of sale to a person who transports in the ordinary course of business goods out of this state, the seller shall annually provide a statement in a form prescribed by the department and retain the statement as a business record; ~~((and))~~

(d) Dairy products that as of September 20, 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135, including byproducts from the manufacturing of the dairy products such as whey and casein; or selling the same to purchasers who transport in the ordinary course of business the goods out of state; as to such persons the tax imposed shall be equal to the value of the products manufactured multiplied by the rate of 0.138 percent. As proof of sale to a person who transports in the ordinary course of business goods out of this state, the seller shall annually provide a statement in a form prescribed by the department and retain the statement as a business record; and

(e) Alcohol fuel or wood biomass fuel, as those terms are defined in RCW 82.29A.135; as to such persons the amount of tax with respect to the business shall be equal to the value of alcohol fuel or wood biomass fuel manufactured, multiplied by the rate of 0.138 percent.

(2) 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 0.138 percent.

(3) 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 0.484 percent.

(4) 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 0.138 percent.

(5) 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 0.275 percent.

(6) 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 0.275 percent.

(7) Upon every person engaging within this state in the business of acting as a travel agent or tour operator; 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 0.275 percent.

(8) 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 0.275 percent.

(9) 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 0.275 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.

(10) 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 3.3 percent.

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.

(11) 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 0.484 percent.

(12) Upon every person engaging within this state in business as a hospital, as defined in chapter 70.41 RCW, that is operated as a nonprofit corporation or by the state or any of its political subdivisions, as to such persons, the amount of tax with respect to such activities shall be equal to the gross income of the business multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5 percent thereafter. The moneys collected under this subsection shall be deposited in the health services account created under RCW 43.72.900.

NEW SECTION. Sec. 12. A new section is added to chapter 82.04 RCW to read as follows:

(1) In computing tax there may be deducted from the measure of tax amounts received from the retail sale, or for the distribution, of wood biomass fuel.

(2) For the purposes of this act, the following definitions apply:

(a) "Wood biomass fuel" means a pyrolytic liquid fuel or synthesis gas-derived liquid fuel, used in internal combustion engines, and produced from wood, forest, or field residue, or dedicated energy crops that do not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chroma-arsenic.

(b) "Distribution" means any of the actions specified in RCW 82.36.020(2).

(3) This section expires July 1, 2009.

NEW SECTION. Sec. 13. A new section is added to chapter 82.08 RCW to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales of machinery and equipment, or to services rendered in respect to constructing structures, installing, constructing, repairing, cleaning, decorating, altering, or improving of structures or machinery and equipment, or to sales of tangible personal property that becomes an ingredient or component of structures or machinery and equipment, if the machinery, equipment, or structure is used directly for the retail sale of a wood biomass fuel blend. Structures and machinery and equipment that are used for the retail sale of a wood biomass fuel blend and for other purposes are exempt only on the portion used directly for the retail sale of a wood biomass fuel blend.

(2) The tax levied by RCW 82.08.020 does not apply to sales of fuel delivery vehicles or to sales of or charges made for labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the vehicles including repair parts and replacement parts if at least seventy-five percent of the fuel distributed by the vehicles is a wood biomass fuel blend.

(3) A person taking the exemption under this section must keep records necessary for the department to verify eligibility under this section. The exemption is available only when the buyer provides the seller with an exemption certificate in a form and manner prescribed by the department. The seller shall retain a copy of the certificate for the seller's files.

(4) For the purposes of this section, the definitions in section 1 of this act and this subsection apply.

(a) "Wood biomass fuel blend" means fuel that contains at least twenty percent wood biomass fuel by volume.

(b) "Machinery and equipment" means industrial fixtures, devices, and support facilities and tangible personal property that becomes an ingredient or component thereof, including repair parts and replacement parts that are integral and necessary for the delivery of a wood biomass fuel blend into the fuel tank of a motor vehicle.

(5) This section expires July 1, 2009.

NEW SECTION. Sec. 14. A new section is added to chapter 82.12 RCW to read as follows:

(1) The provisions of this chapter do not apply in respect to the use of machinery and equipment, or to services rendered in respect to installing, repairing, cleaning, altering, or improving of eligible machinery and equipment, or tangible personal property that becomes an ingredient or component of machinery and equipment used directly for the retail sale of a wood biomass fuel blend.

(2) The provisions of this chapter do not apply in respect to the use of fuel delivery vehicles including repair parts and replacement parts and to services rendered in respect to installing, repairing, cleaning, altering, or improving the vehicles if at least seventy-five percent of the fuel distributed by the vehicles is a wood biomass fuel blend.

(3) For the purposes of this section, the definitions in section 13 of this act apply.

(4) This section expires July 1, 2009.

NEW SECTION. Sec. 15. Section 9 of this act applies to taxes levied for collection in 2004 and thereafter.

NEW SECTION. Sec. 16. (1) Sections 9 through 15 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2003.

(2) Sections 1 through 8 of this act take effect July 1, 2004.

NEW SECTION. Sec. 17. Sections 1 through 8 of this act are null and void if the legislature passes and the governor signs any bill into law before July 1, 2004, that extends the expiration date in RCW 82.60.050.

NEW SECTION. Sec. 18. Sections 1 through 8 of this act constitute a new chapter in Title 82 RCW.

Passed by the House April 22, 2003.

Passed by the Senate April 10, 2003.

Approved by the Governor May 16, 2003.

Filed in Office of Secretary of State May 16, 2003.

CHAPTER 340

[Substitute House Bill 2172]

FUEL CELLS—STATE FACILITIES

AN ACT Relating to promoting the purchase of fuel cells for the use of distributive generation at state-owned facilities; and adding a new section to chapter 43.19 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 43.19 RCW to read as follows:

(1) When planning for the capital construction or renovation of a state facility, state agencies shall consider the utilization of fuel cells and renewable or alternative energy sources as a primary source of power for applications that require an uninterruptible power source.

(2) When planning the purchase of back-up or emergency power systems and remote power systems, state agencies shall consider the utilization of fuel cells and renewable or alternative energy sources instead of batteries or internal combustion engines.

(3) The director of general administration shall develop criteria by which state agencies can identify, evaluate, and develop potential fuel cell applications at state facilities.

(4) For the purposes of this section, "fuel cell" means an electrochemical reaction that generates electric energy by combining atoms of hydrogen and oxygen in the presence of a catalyst.

Passed by the House April 27, 2003.

Passed by the Senate April 26, 2003.

Approved by the Governor May 16, 2003.

Filed in Office of Secretary of State May 16, 2003.

CHAPTER 341

[Substitute House Bill 2040]

TAX LIABILITY—DELINQUENT INSURERS, TAXPAYERS

AN ACT Relating to liability for taxes on unlawful or delinquent insurers or taxpayers; amending RCW 48.14.060 and 48.15.130; and adding a new section to chapter 48.14 RCW.

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

Sec. 1. RCW 48.14.060 and 1981 c 6 s 2 are each amended to read as follows:

(1) Any insurer or taxpayer, as defined in RCW 48.14.0201, failing to file its tax statement and to pay the specified tax or prepayment of tax on premiums and prepayments for health care services by the last day of the month in which the tax becomes due shall be assessed a penalty of five percent of the amount of the tax; and if the tax is not paid within forty-five days after the due date, the insurer ~~((shall))~~ will be assessed a total penalty of ten percent of the amount of the tax; and if the tax is not paid within sixty days of the due date, the insurer ~~((shall))~~ will be assessed a total penalty of twenty percent of the amount of the tax. ~~((In such event))~~ The tax may be collected by distraint, and the penalty recovered by any action instituted by the commissioner in any court of competent jurisdiction. The amount of any ~~((such))~~ penalty collected ~~((shall))~~ must be paid to the state treasurer and credited to the general fund.

(2) ~~((At his discretion))~~ In addition to the penalties set forth in subsection (1) of this section, interest will accrue on the amount of the unpaid tax or prepayment at the maximum legal rate of interest permitted under RCW 19.52.020 commencing sixty-one days after the tax is due until paid. This interest will not accrue on taxes imposed under RCW 48.15.120.

(3) The commissioner may revoke the certificate of authority or registration of any ~~((such))~~ delinquent insurer or taxpayer, ~~((such))~~ and the certificate of authority or registration will not ~~((to))~~ be reissued until all taxes, prepayments of tax, interest, and penalties ~~((incurred by the insurer))~~ have been fully paid and the insurer or taxpayer has otherwise qualified for the certificate of authority or registration.

Sec. 2. RCW 48.15.130 and 1983 1st ex.s. c 32 s 5 are each amended to read as follows:

If any surplus line broker fails to file his or her annual statement, or fails to remit the tax provided by RCW 48.15.120, by the last day of the month in which the tax becomes due, the surplus line broker ~~((shall))~~ must pay the penalties provided in RCW 48.14.060~~(1)~~. The tax may be collected by distraint, or the tax and fine may be recovered by an action instituted by the commissioner in any court of competent jurisdiction. Any fine collected by the commissioner ~~((shall))~~ must be paid to the state treasurer and credited to the general fund.

NEW SECTION. Sec. 3. A new section is added to chapter 48.14 RCW to read as follows:

(1) This section applies to any insurer or taxpayer, as defined in RCW 48.14.0201, violating or failing to comply with RCW 48.05.030(1), 48.17.060 (1) or (2), 48.36A.290(1), 48.44.015(1), or 48.46.027(1).

(2) Except as provided in subsection (7) of this section, RCW 48.14.020, 48.14.0201, and 48.14.060 apply to insurers or taxpayers identified in subsection (1) of this section.

(3) If an insurance contract, health care services contract, or health maintenance agreement covers risks or exposures, or enrolled participants only partially in this state, the tax payable is computed on the portion of the premium that is properly allocated to a risk or exposure located in this state, or enrolled participants residing in this state.

(4) In determining the amount of taxable premiums under subsection (3) of this section, all premiums, other than premiums properly allocated or apportioned and reported as taxable premiums of another state, that are written, procured, or received in this state, or that are for a policy or contract negotiated in this state, are considered to be written on risks or property resident, situated, or to be performed in this state, or for health care services to be provided to enrolled participants residing in this state.

(5) Insurance on risks or property resident, situated, or to be performed in this state, or health coverage for the provision of health care services for residents of this state, is considered to be insurance procured, continued, renewed, or performed in this state, regardless of the location from which the application is made, the negotiations are conducted, or the premiums are remitted.

(6) Premiums on risks or exposures that are properly allocated to federal waters or international waters or under the jurisdiction of a foreign government are not taxable by this state.

(7) This section does not apply to premiums on insurance procured by a licensed surplus line broker under chapter 48.15 RCW.

Passed by the House March 17, 2003.

Passed by the Senate April 16, 2003.

Approved by the Governor May 16, 2003.

Filed in Office of Secretary of State May 16, 2003.

CHAPTER 342

[Substitute House Bill 2038]

TOBACCO MANUFACTURERS—MASTER SETTLEMENT AGREEMENT

AN ACT Relating to refunds from escrow for certain tobacco manufacturers; amending RCW 70.157.020; and adding a new section to chapter 70.157 RCW.

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

Sec. 1. RCW 70.157.020 and 1999 c 393 s 3 are each amended to read as follows:

Any tobacco product manufacturer selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary or intermediaries) after May 18, 1999, shall do one of the following:

(a) become a participating manufacturer (as that term is defined in section II(jj) of the Master Settlement Agreement) and generally perform its financial obligations under the Master Settlement Agreement; or

(b)(1) place into a qualified escrow fund by April 15 of the year following the year in question the following amounts (as such amounts are adjusted for inflation)—

1999: \$.0094241 per unit sold after May 18, 1999;

2000: \$.0104712 per unit sold;

for each of 2001 and 2002: \$.0136125 per unit sold;

for each of 2003 through 2006: \$.0167539 per unit sold;

for each of 2007 and each year thereafter: \$.0188482 per unit sold.

(2) A tobacco product manufacturer that places funds into escrow pursuant to paragraph (1) shall receive the interest or other appreciation on such funds as earned. Such funds themselves shall be released from escrow only under the following circumstances—

(A) to pay a judgment or settlement on any released claim brought against such tobacco product manufacturer by the State or any releasing party located or residing in the State. Funds shall be released from escrow under this subparagraph (i) in the order in which they were placed into escrow and (ii) only to the extent and at the time necessary to make payments required under such judgment or settlement;

(B) to the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow on account of units sold in the state in a particular year was greater than the ~~((State's allocable share of the total payments that such manufacturer would have been required to make in that year~~

~~under the Master Settlement Agreement (as determined pursuant to section IX(i)(2) of the Master Settlement Agreement, and before any of the adjustments or offsets described in section IX(i)(3) of that Agreement other than the Inflation Adjustment))~~ Master Settlement Agreement payments, as determined pursuant to section IX(i) of that Agreement including after final determination of all adjustments, that such manufacturer would have been required to make on account of such units sold, had it been a Participating Manufacturer, the excess shall be released from escrow and revert back to such tobacco product manufacturer; or

(C) to the extent not released from escrow under subparagraphs (A) or (B), funds shall be released from escrow and revert back to such tobacco product manufacturer twenty-five years after the date on which they were placed into escrow.

(3) Each tobacco product manufacturer that elects to place funds into escrow pursuant to this subsection shall annually certify to the Attorney General that it is in compliance with this subsection. The Attorney General may bring a civil action on behalf of the State against any tobacco product manufacturer that fails to place into escrow the funds required under this section. Any tobacco product manufacturer that fails in any year to place into escrow the funds required under this section shall—

(A) be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a violation of this subsection, may impose a civil penalty to be paid to the general fund of the state in an amount not to exceed 5 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 100 percent of the original amount improperly withheld from escrow;

(B) in the case of a knowing violation, be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a knowing violation of this subsection, may impose a civil penalty to be paid to the general fund of the state in an amount not to exceed 15 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 300 percent of the original amount improperly withheld from escrow; and

(C) in the case of a second knowing violation, be prohibited from selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary) for a period not to exceed 2 years.

Each failure to make an annual deposit required under this section shall constitute a separate violation. The violator shall also pay the State's costs and attorney's fees incurred during a successful prosecution under this paragraph (3).

NEW SECTION. Sec. 2. A new section is added to chapter 70.157 RCW to read as follows:

If this act is held by a court of competent jurisdiction to be unconstitutional, then RCW 70.157.020(b)(2)(B) shall be repealed in its entirety. If RCW 70.157.020(b)(2) shall thereafter be held by a court of competent jurisdiction to be unconstitutional, then this act shall be repealed, and RCW 70.157.020(b)(2)(B) be restored as if no amendments had been made. Neither any holding of unconstitutionality nor the repeal of RCW 70.157.020(b)(2)(B) shall affect, impair, or invalidate any other portion of RCW 70.157.020 or the application of that section to any other person or circumstance, and the

remaining portions of RCW 70.157.020 shall at all times continue in full force and effect.

Passed by the House April 11, 2003.

Passed by the Senate April 17, 2003.

Approved by the Governor May 16, 2003.

Filed in Office of Secretary of State May 16, 2003.

CHAPTER 343

[House Bill 1858]

TAXATION—CHEMICAL DEPENDENCY SERVICES

AN ACT Relating to the taxation of persons providing chemical dependency services certified by the department of social and health services; amending RCW 82.04.290; and adding a new section to chapter 82.04 RCW.

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

NEW SECTION. Sec. I. A new section is added to chapter 82.04 RCW to read as follows:

(1) Upon every person engaging within this state in the business of providing intensive inpatient or recovery house residential treatment services for chemical dependency, certified by the department of social and health services, for which payment from the United States or any instrumentality thereof or from the state of Washington or any municipal corporation or political subdivision thereof is received as compensation for or to support those services; as to such persons the amount of tax with respect to such business shall be equal to the gross income from such services multiplied by the rate of 0.484 percent.

(2) If the persons described in subsection (1) of this section receive income from sources other than those described in subsection (1) of this section or provide services other than those named in subsection (1) of this section, that income and those services are subject to tax as otherwise provided in this chapter.

Sec. 2. RCW 82.04.290 and 2001 1st sp.s. c 9 s 6 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of providing international investment management services, as to such persons, the amount of tax with respect to such business shall be equal to the gross income or gross proceeds of sales of the business multiplied by a rate of 0.275 percent.

(2) Upon every person engaging within this state in any business activity other than or in addition to those enumerated in RCW 82.04.230, 82.04.240, 82.04.250, 82.04.255, 82.04.260, 82.04.270, 82.04.298, 82.04.2905, 82.04.280, 82.04.2907, ~~((and))~~ 82.04.272, and section 1 of this act, and subsection (1) of this section; as to such persons the amount of tax on account of such activities shall be equal to the gross income of the business multiplied by the rate of 1.5 percent.

This section includes, among others, and without limiting the scope hereof (whether or not title to materials used in the performance of such business passes to another by accession, confusion or other than by outright sale), persons engaged in the business of rendering any type of service which does not constitute a "sale at retail" or a "sale at wholesale." The value of advertising,

demonstration, and promotional supplies and materials furnished to an agent by his principal or supplier to be used for informational, educational and promotional purposes shall not be considered a part of the agent's remuneration or commission and shall not be subject to taxation under this section.

Passed by the House April 24, 2003.

Passed by the Senate April 14, 2003.

Approved by the Governor May 16, 2003.

Filed in Office of Secretary of State May 16, 2003.

CHAPTER 344

[House Bill 2001]

TAX EXEMPTIONS—ARTIST ORGANIZATIONS

AN ACT Relating to property tax exemptions for nonprofit organizations supporting artists; amending RCW 84.36.810; adding a new section to chapter 84.36 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. A new section is added to chapter 84.36 RCW to read as follows:

The real and personal property owned or used by a nonprofit organization is exempt from taxation if the property is used for solicitation or collection of gifts, donations, or grants for the support of individual artists and the organization meets all of the following conditions:

- (1) The organization is organized and conducted for nonsectarian purposes.
- (2) The organization is qualified for exemption under section 501(c)(3) of the federal internal revenue code.
- (3) The organization is governed by a volunteer board of directors of at least eight members.
- (4) If the property is leased, the benefit of the exemption inures to the user.
- (5) The gifts, donations, and grants are used by the organization for grants, fellowships, information services, and educational resources in support of individual artists engaged in the production or performance of musical, dance, artistic, dramatic, or literary works.

Sec. 2. RCW 84.36.810 and 2001 c 126 s 3 are each amended to read as follows:

(1)(a) Upon cessation of a use under which an exemption has been granted pursuant to RCW 84.36.030, 84.36.037, 84.36.040, 84.36.041, 84.36.042, 84.36.043, 84.36.046, 84.36.050, 84.36.060, 84.36.550, section 1 of this act, 84.36.560, and 84.36.570, except as provided in (b) of this subsection, the county treasurer shall collect all taxes which would have been paid had the property not been exempt during the three years preceding, or the life of such exemption, if such be less, together with the interest at the same rate and computed in the same way as that upon delinquent property taxes. If the property has been granted an exemption for more than ten consecutive years, taxes and interest shall not be assessed under this section.

(b) Upon cessation of use by an institution of higher education of property exempt under RCW 84.36.050(2) the county treasurer shall collect all taxes which would have been paid had the property not been exempt during the seven years preceding, or the life of the exemption, whichever is less.

(2) Subsection (1) of this section applies only when ownership of the property is transferred or when fifty-one percent or more of the area of the property loses its exempt status. The additional tax under subsection (1) of this section shall not be imposed if the cessation of use resulted solely from:

(a) Transfer to a nonprofit organization, association, or corporation for a use which also qualifies and is granted exemption under this chapter;

(b) A taking through the exercise of the power of eminent domain, or sale or transfer to an entity having the power of eminent domain in anticipation of the exercise of such power;

(c) Official action by an agency of the state of Washington or by the county or city within which the property is located which disallows the present use of such property;

(d) A natural disaster such as a flood, windstorm, earthquake, or other such calamity rather than by virtue of the act of the organization, association, or corporation changing the use of such property;

(e) Relocation of the activity and use of another location or site except for undeveloped properties of camp facilities exempted under RCW 84.36.030;

(f) Cancellation of a lease on leased property that had been exempt under this chapter ((or RCW 84.36.560)); or

(g) A change in the exempt portion of a home for the aging under RCW 84.36.041(3), as long as some portion of the home remains exempt.

(3) Subsections (2)(e) and (f) of this section do not apply to property leased to a state institution of higher education and exempt under RCW 84.36.050(2).

NEW SECTION. Sec. 3. This act applies to taxes levied for collection in 2004 and thereafter.

Passed by the House April 24, 2003.

Passed by the Senate April 14, 2003.

Approved by the Governor May 16, 2003.

Filed in Office of Secretary of State May 16, 2003.

CHAPTER 345

[Engrossed House Bill 1395]

ALCOHOLIC BEVERAGES—CATERING

AN ACT Relating to the catering of alcoholic beverages at special events by nonprofit organizations; and amending RCW 66.24.320, 66.24.420, and 66.24.570.

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

Sec. 1. RCW 66.24.320 and 1998 c 126 s 4 are each amended to read as follows:

There shall be a beer and/or wine restaurant license to sell beer or wine, or both, at retail, for consumption on the premises. A patron of the licensee may remove from the premises, recorked or recapped in its original container, any portion of wine that was purchased for consumption with a meal.

(1) The annual fee shall be two hundred dollars for the beer license, two hundred dollars for the wine license, or four hundred dollars for a combination beer and wine license.

(2)(a) The board may issue a caterer's endorsement to this license to allow the licensee to remove from the liquor stocks at the licensed premises, only those

types of liquor that are authorized under the on-premises license privileges for sale and service at ~~((special occasion))~~ event locations at a specified date and place not currently licensed by the board. ~~((The privilege of selling and serving liquor under the endorsement is limited to members and guests of a society or organization as defined in RCW 66.24.375.))~~ If the event is open to the public, it must be sponsored by a society or organization as defined by RCW 66.24.375. If attendance at the event is limited to members or invited guests of the sponsoring individual, society, or organization, the requirement that the sponsor must be a society or organization as defined by RCW 66.24.375 is waived. Cost of the endorsement is three hundred fifty dollars.

~~((a))~~ (b) The holder of this license with catering endorsement shall, if requested by the board, notify the board or its designee of the date, time, place, and location of any catered event. Upon request, the licensee shall provide to the board all necessary or requested information concerning the society or organization that will be holding the function at which the endorsed license will be utilized.

~~((b) If attendance at the function will be limited to members and invited guests of the sponsoring society or organization, the requirement that the society or organization be within the definition of RCW 66.24.375 is waived.))~~

Sec. 2. RCW 66.24.420 and 1998 c 126 s 6 are each amended to read as follows:

(1) The spirits, beer, and wine restaurant license shall be issued in accordance with the following schedule of annual fees:

(a) The annual fee for a spirits, beer, and wine restaurant license shall be graduated according to the dedicated dining area and type of service provided as follows:

Less than 50% dedicated dining area	\$2,000
50% or more dedicated dining area	\$1,600
Service bar only	\$1,000

(b) The annual fee for the license when issued to any other spirits, beer, and wine restaurant licensee outside of incorporated cities and towns shall be prorated according to the calendar quarters, or portion thereof, during which the licensee is open for business, except in case of suspension or revocation of the license.

(c) Where the license shall be issued to any corporation, association or person operating a bona fide restaurant in an airport terminal facility providing service to transient passengers with more than one place where liquor is to be dispensed and sold, such license shall be issued upon the payment of the annual fee, which shall be a master license and shall permit such sale within and from one such place. Such license may be extended to additional places on the premises at the discretion of the board and a duplicate license may be issued for each such additional place: PROVIDED, That the holder of a master license for a restaurant in an airport terminal facility shall be required to maintain in a substantial manner at least one place on the premises for preparing, cooking, and serving of complete meals, and such food service shall be available on request in other licensed places on the premises: PROVIDED, FURTHER, That an additional license fee of twenty-five percent of the annual master license fee shall be required for such duplicate licenses.

(d) Where the license shall be issued to any corporation, association, or person operating dining places at a publicly or privately owned civic or convention center with facilities for sports, entertainment, or conventions, or a combination thereof, with more than one place where liquor is to be dispensed and sold, such license shall be issued upon the payment of the annual fee, which shall be a master license and shall permit such sale within and from one such place. Such license may be extended to additional places on the premises at the discretion of the board and a duplicate license may be issued for each such additional place: PROVIDED, That the holder of a master license for a dining place at such a publicly or privately owned civic or convention center shall be required to maintain in a substantial manner at least one place on the premises for preparing, cooking, and serving of complete meals, and food service shall be available on request in other licensed places on the premises: PROVIDED FURTHER, That an additional license fee of ten dollars shall be required for such duplicate licenses.

(e) Where the license shall be issued to any corporation, association or person operating more than one building containing dining places at privately owned facilities which are open to the public and where there is a continuity of ownership of all adjacent property, such license shall be issued upon the payment of an annual fee which shall be a master license and shall permit such sale within and from one such place. Such license may be extended to the additional dining places on the property or, in the case of a spirits, beer, and wine restaurant licensed hotel, property owned or controlled by leasehold interest by that hotel for use as a conference or convention center or banquet facility open to the general public for special events in the same metropolitan area, at the discretion of the board and a duplicate license may be issued for each additional place: PROVIDED, That the holder of the master license for the dining place shall not offer alcoholic beverages for sale, service, and consumption at the additional place unless food service is available at both the location of the master license and the duplicate license: PROVIDED FURTHER, That an additional license fee of twenty dollars shall be required for such duplicate licenses.

(2) The board, so far as in its judgment is reasonably possible, shall confine spirits, beer, and wine restaurant licenses to the business districts of cities and towns and other communities, and not grant such licenses in residential districts, nor within the immediate vicinity of schools, without being limited in the administration of this subsection to any specific distance requirements.

(3) The board shall have discretion to issue spirits, beer, and wine restaurant licenses outside of cities and towns in the state of Washington. The purpose of this subsection is to enable the board, in its discretion, to license in areas outside of cities and towns and other communities, establishments which are operated and maintained primarily for the benefit of tourists, vacationers and travelers, and also golf and country clubs, and common carriers operating dining, club and buffet cars, or boats.

(4) The total number of spirits, beer, and wine restaurant licenses issued in the state of Washington by the board, not including spirits, beer, and wine private club licenses, shall not in the aggregate at any time exceed one license for each fifteen hundred of population in the state, determined according to the yearly population determination developed by the office of financial management pursuant to RCW 43.62.030.

(5) Notwithstanding the provisions of subsection (4) of this section, the board shall refuse a spirits, beer, and wine restaurant license to any applicant if in the opinion of the board the spirits, beer, and wine restaurant licenses already granted for the particular locality are adequate for the reasonable needs of the community.

(6)(a) The board may issue a caterer's endorsement to this license to allow the licensee to remove the liquor stocks at the licensed premises, for use as liquor for sale and service at ~~((special occasion))~~ event locations at a specified date and place not currently licensed by the board. ~~((The privilege of selling and serving liquor under such endorsement is limited to members and guests of a society or organization as defined in RCW 66.24.375.))~~ If the event is open to the public, it must be sponsored by a society or organization as defined by RCW 66.24.375. If attendance at the event is limited to members or invited guests of the sponsoring individual, society, or organization, the requirement that the sponsor must be a society or organization as defined by RCW 66.24.375 is waived. Cost of the endorsement is three hundred fifty dollars.

~~((a))~~ (b) The holder of this license with catering endorsement shall, if requested by the board, notify the board or its designee of the date, time, place, and location of any catered event. Upon request, the licensee shall provide to the board all necessary or requested information concerning the society or organization that will be holding the function at which the endorsed license will be utilized.

~~((b) If attendance at the function will be limited to members and invited guests of the sponsoring society or organization, the requirement that the society or organization be within the definition of RCW 66.24.375 is waived.))~~

Sec. 3. RCW 66.24.570 and 2001 c 199 s 5 are each amended to read as follows:

(1) There is a license for sports entertainment facilities to be designated as a sports/entertainment facility license to sell beer, wine, and spirits at retail, for consumption upon the premises only, the license to be issued to the entity providing food and beverage service at a sports entertainment facility as defined in this section. The cost of the license is two thousand five hundred dollars per annum.

(2) For purposes of this section, a sports entertainment facility includes a publicly or privately owned arena, coliseum, stadium, or facility where sporting events are presented for a price of admission. The facility does not have to be exclusively used for sporting events.

(3) The board may impose reasonable requirements upon a licensee under this section, such as requirements for the availability of food and victuals including but not limited to hamburgers, sandwiches, salads, or other snack food. The board may also restrict the type of events at a sports entertainment facility at which beer, wine, and spirits may be served. When imposing conditions for a licensee, the board must consider the seating accommodations, eating facilities, and circulation patterns in such a facility, and other amenities available at a sports entertainment facility.

(4)(a) The board may issue a caterer's endorsement to the license under this section to allow the licensee to remove from the liquor stocks at the licensed premises, for use as liquor for sale and service at ~~((special occasion))~~ event locations at a specified date and place not currently licensed by the board. ~~((The~~

~~privilege of selling and serving liquor under the endorsement is limited to members and guests of a society or organization as defined in RCW 66.24.375.)) If the event is open to the public, it must be sponsored by a society or organization as defined by RCW 66.24.375. If attendance at the event is limited to members or invited guests of the sponsoring individual, society, or organization, the requirement that the sponsor must be a society or organization as defined by RCW 66.24.375 is waived.~~ Cost of the endorsement is three hundred fifty dollars.

~~((a))~~ (b) The holder of this license with catering endorsement shall, if requested by the board, notify the board or its designee of the date, time, place, and location of any catered event. Upon request, the licensee shall provide to the board all necessary or requested information concerning the society or organization that will be holding the function at which the endorsed license will be utilized.

~~((b) If attendance at the function will be limited to members and invited guests of the sponsoring society or organization, the requirement that the society or organization be within the definition of RCW 66.24.375 is waived.))~~

(5) The board may issue an endorsement to the beer, wine, and spirits sports/entertainment facility license that allows the holder of a beer, wine, and spirits sports/entertainment facility license to sell for off-premises consumption wine vinted and bottled in the state of Washington and carrying a label exclusive to the license holder selling the wine. Spirits and beer may not be sold for off-premises consumption under this section. The annual fee for the endorsement under this ~~((chapter {section}))~~ section is one hundred twenty dollars.

Passed by the House March 5, 2003.

Passed by the Senate April 15, 2003.

Approved by the Governor May 16, 2003.

Filed in Office of Secretary of State May 16, 2003.

CHAPTER 346

[Substitute House Bill 1173]

TRADE REPRESENTATIVE

AN ACT Relating to the office of the Washington state trade representative; amending RCW 43.332.005 and 43.332.010; and adding a new section to chapter 43.332 RCW.

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

Sec. 1. RCW 43.332.005 and 1995 c 350 s 1 are each amended to read as follows:

(1) The legislature finds that:

(a) The expansion of international trade is vital to the overall growth of Washington's economy;

(b) On a per capita basis, Washington state is the most international trade dependent state in the nation;

(c) The North American free trade agreement (NAFTA) and the general agreement on tariffs and trade (GATT) highlight the increased importance of international trade opportunities to the United States and the state of Washington;

(d) The passage of NAFTA and GATT will have a major impact on the state's agriculture, aerospace, computer software, and textiles and apparel sectors;

(e) There is a need to strengthen and coordinate the state's activities in promoting and developing its agricultural, manufacturing, and service industries overseas, especially for small and medium-sized businesses, and minority and women-owned business enterprises; and

(f) The importance of having a coherent vision for advancing Washington state's interest in the global economy has rarely been so consequential as it is now.

(2) The legislature declares that the purpose of the office of the Washington state trade representative is to:

(a) Strengthen and expand the state's activities in marketing its goods and services overseas;

(b) Review and analyze proposed international trade agreements to assess their impact on goods and services produced by Washington businesses; and

(c) Inform the legislature about ongoing trade negotiations, trade development, and the possible impacts on Washington's economy.

*Sec. 2. RCW 43.332.010 and 1995 c 350 s 2 are each amended to read as follows:

(1) The office of the Washington state trade representative is created ((under)) in the office of the governor. The office shall serve as the state's official liaison with foreign governments on trade matters.

~~((The office of the Washington state trade representative may accept or request grants or gifts from citizens and other private sources to be used to defray the costs of appropriate hosting of foreign dignitaries, including appropriate gift giving and reciprocal gift giving, or other activities of the office. The office shall open and maintain a bank account into which it shall deposit all money received under this section. Such money and the interest accruing thereon shall not constitute public funds, shall be kept segregated and apart from funds of the state, and shall not be subject to appropriation or allotment by the state or subject to chapter 43.88 RCW.))~~ (2) The office shall:

(a) Work with the department of community, trade, and economic development, the department of agriculture, and other appropriate state agencies, and within the agencies' existing resources, review and analyze proposed and enacted international trade agreements and provide an assessment of the impact of the proposed or enacted agreement on Washington's businesses and firms;

(b) Provide input to the office of the United States trade representative in the development of international trade, commodity, and direct investment policies that reflect the concerns of the state of Washington;

(c) Serve as liaison to the legislature on matters of trade policy oversight including, but not limited to, updates to the legislature regarding the status of trade negotiations, trade litigation, and the impacts of trade policy on Washington state businesses;

(d) Work with the international trade division of the department of community, trade, and economic development and the international marketing program of the Washington state department of agriculture to develop a statewide strategy designed to increase the export of Washington goods and

services, particularly goods and services from small and medium-sized businesses; and

(e) Conduct other activities the governor deems necessary to promote international trade and foreign investment within the state.

(3) The office shall prepare and submit an annual report on its activities under subsection (2) of this section to the governor and appropriate committees of the legislature.

**Sec. 2 was partially vetoed. See message at end of chapter.*

NEW SECTION. Sec. 3. A new section is added to chapter 43.332 RCW to read as follows:

The office of the Washington state trade representative may accept or request grants or gifts from citizens and other private sources to be used to defray the costs of appropriate hosting of foreign dignitaries, including appropriate gift-giving and reciprocal gift-giving, or other activities of the office. The office shall open and maintain a bank account into which it shall deposit all money received under this section. Such money and the interest accruing thereon shall not constitute public funds, shall be kept segregated and apart from funds of the state, and shall not be subject to appropriation or allotment by the state or subject to chapter 43.88 RCW.

Passed by the House March 12, 2003.

Passed by the Senate April 25, 2003.

Approved by the Governor May 16, 2003, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 16, 2003.

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

"I am returning herewith, without my approval as to section 2(3) Substitute House Bill No. 1173 entitled:

"AN ACT Relating to the office of the Washington state trade representative;"

This bill expands and clarifies the duties of the Washington State Trade Representative.

Subsection (3) of section 2 requires the Office of the Washington State Trade Representative to submit an annual report. While I have no objection to the other amendments in this section, the ongoing reporting requirement is unnecessary given the coordination prescribed by the bill.

For these reasons, I have vetoed section 2(3) of Substitute House Bill No. 1173.

With the exception of section 2(3), Substitute House Bill No. 1173 is approved."

CHAPTER 347

[House Bill 1179]

COMMITTEE ON ECONOMIC DEVELOPMENT AND INTERNATIONAL RELATIONS

AN ACT Relating to modifying the name of the legislative committee on economic development; and amending RCW 44.52.010.

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

Sec. 1. RCW 44.52.010 and 1985 c 467 s 17 are each amended to read as follows:

(1) Economic development and in particular international trade, tourism, and investment have become increasingly important to Washington, affecting the

state's employment, revenues, and general economic well-being. Additionally, economic trends are rapidly changing and the international marketplace has become increasingly competitive as states and countries seek to improve and safeguard their own economic well-being. The purpose of the legislative committee on economic development and international relations is to provide responsive and consistent involvement by the legislature in economic development to maintain a healthy state economy and to provide employment opportunities to Washington residents.

(2) There is created a legislative committee on economic development and international relations which shall consist of six senators and six representatives from the legislature and the lieutenant governor who shall serve as chairperson. The senate members of the committee shall be appointed by the president of the senate and the house members of the committee shall be appointed by the speaker of the house. Not more than three members from each house shall be from the same political party. A list of appointees shall be submitted before the close of each regular legislative session during an odd-numbered year or any successive special session convened by the governor or the legislature prior to the close of such regular session or successive special session(s) for confirmation of senate members, by the senate, and house members, by the house. Vacancies occurring shall be filled by the appointing authority.

Passed by the House February 28, 2003.

Passed by the Senate April 16, 2003.

Approved by the Governor May 16, 2003.

Filed in Office of Secretary of State May 16, 2003.

CHAPTER 348

[Substitute House Bill 1442]

TIMESHARES

AN ACT Relating to timeshares; and adding a new section to chapter 64.36 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 64.36 RCW to read as follows:

(1) An effective registration pursuant to this chapter is required for any party to offer to sell a timeshare interest. A promoter who offers to sell or sells revocable timeshare interests in incomplete projects or facilities is limited by and must comply with all of the requirements of RCW 64.36.025. If a promoter seeks to enter into irrevocable purchase agreements with purchasers for timeshare interests in incomplete projects or facilities, the promoter must meet the requirements in this section in addition to RCW 64.36.020 and the following limitations and conditions apply:

(a) The promoter is limited to offering or selling only fee simple deeded timeshare interests;

(b) Construction on the project must have begun by the time the irrevocable purchase agreement is signed and the purchaser must have the right to occupy the unit and use all contracted for amenities no later than within two years of the date that the irrevocable purchase agreement is signed;

(c) The promoter must establish an independent third-party escrow account for the purpose of protecting the funds or other property paid, pledged, or deposited by purchasers;

(d) The promoter's solicitations, advertisements, and promotional materials must clearly and conspicuously disclose that "THE PROJECT IS NOT YET COMPLETED; IT IS STILL UNDER CONSTRUCTION"; and

(e) The promoter's solicitations, advertisements, and promotional materials and the timeshare interest purchase agreement must clearly and conspicuously provide for and disclose the last possible estimated date for completion of construction of any building the promoter is contractually obligated to the purchaser to complete.

(2) The timeshare interest purchase agreement must contain the following language in fourteen-point bold face type: "If the building in which the timeshare interest is located and all contracted for amenities are not completed by [estimated date of completion], the purchaser has the right to void the purchase agreement and is entitled to a full, unqualified refund of all moneys paid."

(3) One hundred percent of all funds or other property that is received from or on behalf of purchasers of timeshare interests prior to the occurrence of events required in this section must be deposited pursuant to a third-party escrow agreement approved by the director. For purposes of this section, "purchasers" includes all persons solicited, offered, or who purchased a timeshare interest by a promoter within the state of Washington. An escrow agent shall maintain the account only in such a manner as to be under the direct supervision and control of the escrow agent. The escrow agent has a fiduciary duty to each purchaser to maintain the escrow accounts in accordance with good accounting practices and to release the purchaser's funds or other property from escrow only in accordance with this chapter. If the escrow agent receives conflicting demands for funds or property held in escrow, the escrow agent shall immediately notify the department of licensing of the dispute and the department shall determine if and how the funds should be distributed. If the purchaser, promoter, or escrow agent disagrees with the department's determination, the parties have the right to request an administrative hearing under chapter 34.05 RCW. Funds may be released from the escrow account to the purchaser if the purchaser cancels within the cancellation period, or to the promoter only when all three of the following conditions occur:

(a) The purchaser's cancellation period has expired;

(b) Closing has occurred; and

(c) Construction is complete and the building is ready to occupy.

(4) In lieu of depositing purchaser funds into an escrow account, the promoter may post with the department a bond in an amount equal to or greater than the amount that would otherwise be required to be placed into the escrow account.

(5) Any purchaser has the right to void the timeshare purchase agreement and request a full, unqualified refund if construction of the building in which the timeshare interest is located or all contracted for amenities are not completed within two years from the date that the irrevocable purchase agreement is signed or by the last estimated date of construction contained in the irrevocable purchase agreement, whichever is earlier.

(6) If the completed timeshare building or contracted for amenities are materially and adversely different from the building or amenities that were promised to purchasers at the time that the purchase agreements were signed, the director may declare any or all of the purchaser contracts void. Before declaring the contracts void, the director shall give the promoter the opportunity for a hearing in accordance with chapters 34.05 and 18.235 RCW.

(7) If the promoter intends to or does pledge or borrow against funds or properties, that are held in escrow or protected by a bond, to help finance in whole or in part the construction of the timeshare project or to help pay for operating costs, this must be fully, plainly, and conspicuously disclosed in all written advertising, in all written solicitations for the sale of the timeshare interests, in the registration with the director, and in the purchase agreement or contract.

(8) A promoter who obtains an effective registration for a revocable timeshare interest reservation must meet the requirements of this section in order to complete an irrevocable purchase agreement.

Passed by the House April 22, 2003.

Passed by the Senate April 17, 2003.

Approved by the Governor May 16, 2003.

Filed in Office of Secretary of State May 16, 2003.

CHAPTER 349

[House Bill 2186]

RETIREMENT SYSTEMS—DEFINED BENEFIT—WAIVER

AN ACT Relating to making an irrevocable choice to waive rights to the defined benefit under the plan 3 retirement systems; adding a new section to chapter 41.32 RCW; adding a new section to chapter 41.35 RCW; adding a new section to chapter 41.40 RCW; and declaring an emergency.

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

NEW SECTION. Sec. 1. A new section is added to chapter 41.32 RCW to read as follows:

Any member receiving or having received a distribution under chapter 41.34 RCW may make an irrevocable choice to waive all rights to a benefit under RCW 41.32.840 by notifying the department in writing of their intention.

NEW SECTION. Sec. 2. A new section is added to chapter 41.35 RCW to read as follows:

Any member receiving or having received a distribution under chapter 41.34 RCW may make an irrevocable choice to waive all rights to a benefit under RCW 41.35.620 by notifying the department in writing of their intention.

NEW SECTION. Sec. 3. A new section is added to chapter 41.40 RCW to read as follows:

Any member receiving or having received a distribution under chapter 41.34 RCW may make an irrevocable choice to waive all rights to a benefit under RCW 41.40.790 by notifying the department in writing of their intention.

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 takes effect immediately.

Passed by the House April 24, 2003.

Passed by the Senate April 11, 2003.

Approved by the Governor May 16, 2003.

Filed in Office of Secretary of State May 16, 2003.

CHAPTER 350

[Engrossed Substitute Senate Bill 5247]

LOCAL OPTION MOTOR VEHICLE FUEL TAX

AN ACT Relating to alternative local option fuel taxes; amending RCW 82.80.010, 36.120.050, 82.36.440, and 82.38.280; and adding new sections to chapter 82.80 RCW.

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

Sec. 1. RCW 82.80.010 and 1998 c 176 s 86 are each amended to read as follows:

(1) For purposes of this section:

(a) "Distributor" means every person who imports, refines, manufactures, produces, or compounds motor vehicle fuel and special fuel as defined in RCW 82.36.010 and 82.38.020, respectively, and sells or distributes the fuel into a county;

(b) "Person" has the same meaning as in RCW 82.04.030.

(2) 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 statewide motor vehicle fuel tax rate under RCW 82.36.025 on each gallon of motor vehicle fuel as defined in RCW 82.36.010 and on each gallon of special fuel as defined in RCW 82.38.020 sold within the boundaries of the county. Vehicles paying an annual license fee under RCW 82.38.075 are exempt from the county fuel excise tax. 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 local option motor vehicle fuel tax on each gallon of motor vehicle fuel and on each gallon of special fuel is imposed upon the distributor of the fuel.

(4) A taxable event for the purposes of this section occurs upon the first distribution of the fuel within the boundaries of a county to a retail outlet, bulk fuel user, or ultimate user of the fuel.

(5) All administrative provisions in chapters 82.01, 82.03, and 82.32 RCW, insofar as they are applicable, apply to local option fuel taxes imposed under this section.

(6) Before the effective date of the imposition of the fuel taxes under this section, a county shall contract with the department of revenue for the administration and collection of the taxes. The contract must provide that a percentage amount, not to exceed one percent of the taxes imposed under this section, will be deposited into the local tax administration account created in the custody of the state treasurer. The department of revenue may spend money from this account, upon appropriation, for the administration of the local taxes imposed under this section.

(7) 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 ~~((2))~~ (b) and under the conditions and limitations provided in RCW 82.80.080.

~~((4))~~ (8) The proceeds of the additional excise taxes levied under this section shall be used strictly for transportation purposes in accordance with RCW 82.80.070.

~~((5) The department of licensing shall administer and collect the county fuel taxes. The department shall deduct a percentage amount, as provided by contract, for administrative, collection, refund, and audit expenses incurred. The remaining proceeds shall be remitted to the custody of the state treasurer for monthly distribution under RCW 82.80.080.)~~

(9) A county may not levy the tax under this section if they are levying the tax in section 2 of this act or if they are a member of a regional transportation investment district levying the tax in section 3 of this act.

NEW SECTION. Sec. 2. A new section is added to chapter 82.80 RCW to read as follows:

(1) For purposes of this section:

(a) "Distributor" means every person who imports, refines, manufactures, produces, or compounds motor vehicle fuel and special fuel as defined in RCW 82.36.010 and 82.38.020, respectively, and sells or distributes the fuel into a county;

(b) "Person" has the same meaning as in RCW 82.04.030.

(2) For purposes of dedication to a regional transportation investment district plan under chapter 36.120 RCW, subject to the conditions of this section, a county may levy additional excise taxes equal to ten percent of the statewide motor vehicle fuel tax rate under RCW 82.36.025 on each gallon of motor vehicle fuel as defined in RCW 82.36.010 and on each gallon of special fuel as defined in RCW 82.38.020 sold within the boundaries of the county. The additional excise tax is subject to the approval of the county's legislative body and a majority of the registered voters of the county voting on the proposition at a general or special election. 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 must state that the revenues from the tax will be used for a regional transportation investment district plan. The county's authority to levy additional excise taxes under this section includes the incorporated and unincorporated areas of the county. Vehicles paying an annual

license fee under RCW 82.38.075 are exempt from the county fuel excise tax. 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 may 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 will be the first day of January, April, July, or October.

(3) The local option motor vehicle fuel tax on each gallon of motor vehicle fuel and on each gallon of special fuel is imposed upon the distributor of the fuel.

(4) A taxable event for the purposes of this section occurs upon the first distribution of the fuel within the boundaries of a county to a retail outlet, bulk fuel user, or ultimate user of the fuel.

(5) All administrative provisions in chapters 82.01, 82.03, and 82.32 RCW, insofar as they are applicable, apply to local option fuel taxes imposed under this section.

(6) Before the effective date of the imposition of the fuel taxes under this section, a county shall contract with the department of revenue for the administration and collection of the taxes. The contract must provide that a percentage amount, not to exceed one percent of the taxes imposed under this section, will be deposited into the local tax administration account created in the custody of the state treasurer. The department of revenue may spend money from this account, upon appropriation, for the administration of the local taxes imposed under this section.

(7) The state treasurer shall distribute monthly to the county levying the tax as part of a regional transportation investment plan, after the deductions for payments and expenditures as provided in RCW 46.68.090(1) (a) and (b).

(8) The proceeds of the additional taxes levied by a county in this section, to be used as a part of a regional transportation investment plan, must be used in accordance with chapter 36.120 RCW, but only for those areas that are considered "highway purposes" as that term is construed in Article II, section 40 of the state Constitution.

(9) A county may not levy the tax under this section if they are a member of a regional transportation investment district that is levying the tax in section 3 of this act or the county is levying the tax in RCW 82.80.010.

NEW SECTION. Sec. 3. A new section is added to chapter 82.80 RCW to read as follows:

(1) For purposes of this section:

(a) "Distributor" means every person who imports, refines, manufactures, produces, or compounds motor vehicle fuel and special fuel as defined in RCW 82.36.010 and 82.38.020, respectively, and sells or distributes the fuel into a county;

(b) "Person" has the same meaning as in RCW 82.04.030;

(c) "District" means a regional transportation investment district under chapter 36.120 RCW.

(2) A regional transportation investment district under chapter 36.120 RCW, subject to the conditions of this section, may levy additional excise taxes equal to ten percent of the statewide motor vehicle fuel tax rate under RCW 82.36.025 on each gallon of motor vehicle fuel as defined in RCW 82.36.010 and on each gallon of special fuel as defined in RCW 82.38.020 sold within the boundaries of

the district. The additional excise tax is subject to the approval of a majority of the voters within the district boundaries. Vehicles paying an annual license fee under RCW 82.38.075 are exempt from the district's fuel excise tax. 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 may not be levied less than one month from the date the election results are certified. The commencement date for the levy of any tax under this section will be the first day of January, April, July, or October.

(3) The local option motor vehicle fuel tax on each gallon of motor vehicle fuel and on each gallon of special fuel is imposed upon the distributor of the fuel.

(4) A taxable event for the purposes of this section occurs upon the first distribution of the fuel within the boundaries of the district to a retail outlet, bulk fuel user, or ultimate user of the fuel.

(5) All administrative provisions in chapters 82.01, 82.03, and 82.32 RCW, insofar as they are applicable, apply to local option fuel taxes imposed under this section.

(6) Before the effective date of the imposition of the fuel taxes under this section, a district shall contract with the department of revenue for the administration and collection of the taxes. The contract must provide that a percentage amount, not to exceed one percent of the taxes imposed under this section, will be deposited into the local tax administration account created in the custody of the state treasurer. The department of revenue may spend money from this account, upon appropriation, for the administration of the local taxes imposed under this section.

(7) The state treasurer shall distribute monthly to the district levying the tax as part of the regional transportation investment district plan, after the deductions for payments and expenditures as provided in RCW 46.68.090(1) (a) and (b).

(8) The proceeds of the additional taxes levied by a district in this section, to be used as a part of a regional transportation investment district plan, must be used in accordance with chapter 36.120 RCW, but only for those areas that are considered "highway purposes" as that term is construed in Article II, section 40 of the state Constitution.

(9) A district may not levy the tax in this section if a member county is levying the tax in RCW 82.80.010 or section 2 of this act.

Sec. 4. RCW 36.120.050 and 2002 c 56 s 105 are each amended to read as follows:

(1) A regional transportation investment district planning committee may, as part of a regional transportation investment plan, recommend the imposition of some or all of the following revenue sources, which a regional transportation investment district may impose upon approval of the voters as provided in this chapter:

(a) A regional sales and use tax, as specified in RCW 82.14.430, of up to 0.5 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, upon the occurrence of any taxable event in the regional transportation investment district;

(b) A local option vehicle license fee, as specified under RCW 82.80.100, of up to one hundred dollars per vehicle registered in the district. As used in this

subsection, "vehicle" means motor vehicle as defined in RCW 46.04.320. Certain classes of vehicles, as defined under chapter 46.04 RCW, may be exempted from this fee;

(c) A parking tax under RCW 82.80.030;

(d) A local motor vehicle excise tax under RCW 81.100.060 and chapter 81.104 RCW;

(e) A local option fuel tax under section 3 of this act;

(f) An employer excise tax under RCW 81.100.030; and

~~((f))~~ (g) Vehicle tolls on new or reconstructed facilities. Unless otherwise specified by law, the department shall administer the collection of vehicle tolls on designated facilities, and the state transportation commission, or its successor, shall be the tolling authority.

(2) Taxes, fees, and tolls may not be imposed without an affirmative vote of the majority of the voters within the boundaries of the district voting on a ballot proposition as set forth in RCW 36.120.070. Revenues from these taxes and fees may be used only to implement the plan as set forth in this chapter. A district may contract with the state department of revenue or other appropriate entities for administration and collection of any of the taxes or fees authorized in this section.

(3) Existing statewide motor vehicle fuel and special fuel taxes, at the distribution rates in effect on January 1, 2001, are not intended to be altered by this chapter.

Sec. 5. RCW 82.36.440 and 1991 c 173 s 4 are each amended to read as follows:

The tax 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, except as provided in chapter 82.80 RCW (~~(82.80.010)~~) and RCW 82.47.020.

Sec. 6. RCW 82.38.280 and 1991 c 173 s 5 are each amended to read as follows:

The tax 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, except as provided in chapter 82.80 RCW (~~(82.80.010)~~) and RCW 82.47.020.

Passed by the Senate March 18, 2003.

Passed by the House April 27, 2003.

Approved by the Governor May 16, 2003.

Filed in Office of Secretary of State May 16, 2003.

CHAPTER 35I

[Engrossed Senate Bill 5245]

REGIONAL TRANSPORTATION PLANNING

AN ACT Relating to involving legislators in transportation planning; amending RCW 47.80.040; and adding a new section to chapter 47.80 RCW.

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

Sec. 1. RCW 47.80.040 and 1990 1st ex.s. c 17 s 56 are each amended to read as follows:

Each regional transportation planning organization shall create a transportation policy board. Transportation policy boards shall provide policy advice to the regional transportation planning organization and shall allow representatives of major employers within the region, the department of transportation, transit districts, port districts, and member cities, towns, and counties within the region to participate in policy making. Any members of the house of representatives or the state senate whose districts are wholly or partly within the boundaries of the regional transportation planning organization are considered ex officio, nonvoting policy board members of the regional transportation planning organization. This does not preclude legislators from becoming full-time, voting board members.

NEW SECTION. Sec. 2. A new section is added to chapter 47.80 RCW to read as follows:

When voting on matters solely affecting Washington state, a regional transportation planning organization must obtain a majority vote of the Washington residents serving as members of the regional transportation planning organization before a matter may be adopted.

Passed by the Senate April 21, 2003.

Passed by the House April 14, 2003.

Approved by the Governor May 16, 2003.

Filed in Office of Secretary of State May 16, 2003.

CHAPTER 352

[Substitute Senate Bill 5520]

FERRY SYSTEM—PUBLIC WORKS CONTRACTING

AN ACT Relating to authorizing the ferry system to use alternative public works contracting procedures; and amending RCW 39.10.020, 39.10.051, and 39.10.061.

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

Sec. 1. RCW 39.10.020 and 2001 c 328 s 1 are each amended to read as follows:

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

(1) "Alternative public works contracting procedure" means the design-build and the general contractor/construction manager contracting procedures authorized in RCW 39.10.051 and 39.10.061, respectively.

(2) "Public body" means the state department of general administration; the University of Washington; Washington State University; every city with a population greater than seventy thousand and any public authority chartered by such city under RCW 35.21.730 through 35.21.755 and specifically authorized as provided in RCW 39.10.120(4); every county with a population greater than four hundred fifty thousand; every port district with total revenues greater than fifteen million dollars per year; every public utility district with revenues from energy sales greater than twenty-three million dollars per year; ~~(and)~~ those school districts proposing projects that are considered and approved by the

school district project review board under RCW 39.10.115; and the state ferry system.

(3) "Public works project" means any work for a public body within the definition of the term public work in RCW 39.04.010.

Sec. 2. RCW 39.10.051 and 2002 c 46 s 1 are each amended to read as follows:

(1) Notwithstanding any other provision of law, and after complying with RCW 39.10.030, the following public bodies may utilize the design-build procedure of public works contracting for public works projects authorized under this section: The state department of general administration; the state ferry system; the University of Washington; Washington State University; every city with a population greater than seventy thousand and any public authority chartered by such city under RCW 35.21.730 through 35.21.755 and specifically authorized as provided in RCW 39.10.120(4); every county with a population greater than four hundred fifty thousand; every public utility district with revenues from energy sales greater than twenty-three million dollars per year; and every port district with total revenues greater than fifteen million dollars per year. The authority granted to port districts in this section is in addition to and does not affect existing contracting authority under RCW 53.08.120 and 53.08.130. For the purposes of this section, "design-build procedure" means a contract between a public body and another party in which the party agrees to both design and build the facility, portion of the facility, or other item specified in the contract.

(2) Public bodies authorized under this section may utilize the design-build procedure for public works projects valued over ten million dollars where:

(a) The construction activities or technologies to be used are highly specialized and a design-build approach is critical in developing the construction methodology or implementing the proposed technology; or

(b) The project design is repetitive in nature and is an incidental part of the installation or construction; or

(c) Regular interaction with and feedback from facilities users and operators during design is not critical to an effective facility design.

(3) Public bodies authorized under this section may also use the design-build procedure for the following projects that meet the criteria in subsection (2)(b) and (c) of this section:

(a) The construction or erection of preengineered metal buildings or prefabricated modular buildings, regardless of cost; or

(b) The construction of new student housing projects valued over five million dollars.

(4) Contracts for design-build services shall be awarded through a competitive process utilizing public solicitation of proposals for design-build services. The public body shall publish at least once in a legal newspaper of general circulation published in or as near as possible to that part of the county in which the public work will be done, a notice of its request for proposals for design-build services and the availability and location of the request for proposal documents. The request for proposal documents shall include:

(a) A detailed description of the project including programmatic, performance, and technical requirements and specifications, functional and operational elements, minimum and maximum net and gross areas of any

building, and, at the discretion of the public body, preliminary engineering and architectural drawings;

(b) The reasons for using the design-build procedure;

(c) A description of the qualifications to be required of the proposer including, but not limited to, submission of the proposer's accident prevention program;

(d) A description of the process the public body will use to evaluate qualifications and proposals, including evaluation factors and the relative weight of factors. Evaluation factors shall include, but not be limited to: Proposal price; ability of professional personnel; past performance on similar projects; ability to meet time and budget requirements; ability to provide a performance and payment bond for the project; recent, current, and projected work loads of the firm; location; and the concept of the proposal;

(e) The form of the contract to be awarded;

(f) The amount to be paid to finalists submitting best and final proposals who are not awarded a design-build contract; and

(g) Other information relevant to the project.

(5) The public body shall establish a committee to evaluate the proposals based on the factors, weighting, and process identified in the request for proposals. Based on its evaluation, the public body shall select not fewer than three nor more than five finalists to submit best and final proposals. The public body may, in its sole discretion, reject all proposals. Design-build contracts shall be awarded using the procedures in (a) or (b) of this subsection.

(a) Best and final proposals shall be evaluated and scored based on the factors, weighting, and process identified in the initial request for proposals. The public body may score the proposals using a system that measures the quality and technical merits of the proposal on a unit price basis. Final proposals may not be considered if the proposal cost is greater than the maximum allowable construction cost identified in the initial request for proposals. The public body shall initiate negotiations with the firm submitting the highest scored best and final proposal. If the public body is unable to execute a contract with the firm submitting the highest scored best and final proposal, negotiations with that firm may be suspended or terminated and the public body may proceed to negotiate with the next highest scored firm. Public bodies shall continue in accordance with this procedure until a contract agreement is reached or the selection process is terminated.

(b) If the public body determines that all finalists are capable of producing plans and specifications that adequately meet project requirements, the public body may award the contract to the firm that submits the responsive best and final proposal with the lowest price.

(6) The firm awarded the contract shall provide a performance and payment bond for the contracted amount. The public body shall provide appropriate honorarium payments to finalists submitting best and final proposals who are not awarded a design-build contract. Honorarium payments shall be sufficient to generate meaningful competition among potential proposers on design-build projects.

(7) The authority provided to the state ferry system in this section is limited to projects concerning construction, renovation, preservation, demolition, and reconstruction of ferry terminals and associated land-based facilities.

Sec. 3. RCW 39.10.061 and 2002 c 46 s 2 are each amended to read as follows:

(1) Notwithstanding any other provision of law, and after complying with RCW 39.10.030, a public body may utilize the general contractor/construction manager procedure of public works contracting for public works projects authorized under subsection (2) of this section. For the purposes of this section, "general contractor/construction manager" means a firm with which a public body has selected and negotiated a maximum allowable construction cost to be guaranteed by the firm, after competitive selection through formal advertisement and competitive bids, to provide services during the design phase that may include life-cycle cost design considerations, value engineering, scheduling, cost estimating, constructability, alternative construction options for cost savings, and sequencing of work, and to act as the construction manager and general contractor during the construction phase.

(2) Except those school districts proposing projects that are considered and approved by the school district project review board, public bodies authorized under this section may utilize the general contractor/construction manager procedure for public works projects valued over ten million dollars where:

(a) Implementation of the project involves complex scheduling requirements; or

(b) The project involves construction at an existing facility which must continue to operate during construction; or

(c) The involvement of the general contractor/construction manager during the design stage is critical to the success of the project.

(3) Public bodies should select general contractor/construction managers early in the life of public works projects, and in most situations no later than the completion of schematic design.

(4) Contracts for the services of a general contractor/construction manager under this section shall be awarded through a competitive process requiring the public solicitation of proposals for general contractor/construction manager services. The public solicitation of proposals shall include: A description of the project, including programmatic, performance, and technical requirements and specifications when available; the reasons for using the general contractor/construction manager procedure; a description of the qualifications to be required of the proposer, including submission of the proposer's accident prevention program; a description of the process the public body will use to evaluate qualifications and proposals, including evaluation factors and the relative weight of factors; the form of the contract to be awarded; the estimated maximum allowable construction cost; and the bid instructions to be used by the general contractor/construction manager finalists. Evaluation factors shall include, but not be limited to: Ability of professional personnel, past performance in negotiated and complex projects, and ability to meet time and budget requirements; the scope of work the general contractor/construction manager proposes to self-perform and its ability to perform it; location; recent, current, and projected work loads of the firm; and the concept of their proposal. A public body shall establish a committee to evaluate the proposals. After the committee has selected the most qualified finalists, these finalists shall submit final proposals, including sealed bids for the percent fee, which is the percentage amount to be earned by the general contractor/construction manager as overhead

and profit, on the estimated maximum allowable construction cost and the fixed amount for the detailed specified general conditions work. The public body shall select the firm submitting the highest scored final proposal using the evaluation factors and the relative weight of factors published in the public solicitation of proposals.

(5) The maximum allowable construction cost may be negotiated between the public body and the selected firm after the scope of the project is adequately determined to establish a guaranteed contract cost for which the general contractor/construction manager will provide a performance and payment bond. The guaranteed contract cost includes the fixed amount for the detailed specified general conditions work, the negotiated maximum allowable construction cost, the percent fee on the negotiated maximum allowable construction cost, and sales tax. If the public body is unable to negotiate a satisfactory maximum allowable construction cost with the firm selected that the public body determines to be fair, reasonable, and within the available funds, negotiations with that firm shall be formally terminated and the public body shall negotiate with the next highest scored firm and continue until an agreement is reached or the process is terminated. If the maximum allowable construction cost varies more than fifteen percent from the bid estimated maximum allowable construction cost due to requested and approved changes in the scope by the public body, the percent fee shall be renegotiated.

(6) All subcontract work shall be competitively bid with public bid openings. When critical to the successful completion of a subcontractor bid package and after publication of notice of intent to determine bidder eligibility in a legal newspaper of general circulation published in or as near as possible to that part of the county in which the public work will be done at least twenty days before requesting qualifications from interested subcontract bidders, the owner and general contractor/construction manager may determine subcontractor bidding eligibility using the following evaluation criteria:

- (a) Adequate financial resources or the ability to secure such resources;
 - (b) History of successful completion of a contract of similar type and scope;
 - (c) Project management and project supervision personnel with experience on similar projects and the availability of such personnel for the project;
 - (d) Current and projected workload and the impact the project will have on the subcontractor's current and projected workload;
 - (e) Ability to accurately estimate the subcontract bid package scope of work;
 - (f) Ability to meet subcontract bid package shop drawing and other coordination procedures;
 - (g) Eligibility to receive an award under applicable laws and regulations;
- and
- (h) Ability to meet subcontract bid package scheduling requirements.

The owner and general contractor/construction manager shall weigh the evaluation criteria and determine a minimum acceptable score to be considered an eligible subcontract bidder.

After publication of notice of intent to determine bidder eligibility, subcontractors requesting eligibility shall be provided the evaluation criteria and weighting to be used by the owner and general contractor/construction manager to determine eligible subcontract bidders. After the owner and general

contractor/construction manager determine eligible subcontract bidders, subcontractors requesting eligibility shall be provided the results and scoring of the subcontract bidder eligibility determination.

Subcontract bid packages shall be awarded to the responsible bidder submitting the low responsive bid. The requirements of RCW 39.30.060 apply to each subcontract bid package. All subcontractors who bid work over three hundred thousand dollars shall post a bid bond and all subcontractors who are awarded a contract over three hundred thousand dollars shall provide a performance and payment bond for their contract amount. All other subcontractors shall provide a performance and payment bond if required by the general contractor/construction manager. A low bidder who claims error and fails to enter into a contract is prohibited from bidding on the same project if a second or subsequent call for bids is made for the project. Except as provided for under subsection (7) of this section, bidding on subcontract work by the general contractor/construction manager or its subsidiaries is prohibited. The general contractor/construction manager may negotiate with the low-responsive bidder in accordance with RCW 39.10.080 or, if unsuccessful in such negotiations, rebid.

(7) The general contractor/construction manager, or its subsidiaries, may bid on subcontract work if:

(a) The work within the subcontract bid package is customarily performed by the general contractor/construction manager;

(b) The bid opening is managed by the public body; and

(c) Notification of the general contractor/construction manager's intention to bid is included in the public solicitation of bids for the bid package.

In no event may the value of subcontract work performed by the general contractor/construction manager exceed thirty percent of the negotiated maximum allowable construction cost.

(8) A public body may include an incentive clause in any contract awarded under this section for savings of either time or cost or both from that originally negotiated. No incentives granted may exceed five percent of the maximum allowable construction cost. If the project is completed for less than the agreed upon maximum allowable construction cost, any savings not otherwise negotiated as part of an incentive clause shall accrue to the public body. If the project is completed for more than the agreed upon maximum allowable construction cost, excepting increases due to any contract change orders approved by the public body, the additional cost shall be the responsibility of the general contractor/construction manager.

(9) The authority provided to the state ferry system in this section is limited to projects concerning construction, renovation, preservation, demolition, and reconstruction of ferry terminals and associated land-based facilities.

Passed by the Senate March 16, 2003.

Passed by the House April 26, 2003.

Approved by the Governor May 16, 2003.

Filed in Office of Secretary of State May 16, 2003.

CHAPTER 353

[Engrossed Senate Bill 5450]

NEIGHBORHOOD ELECTRIC VEHICLES

AN ACT Relating to providing incentives to reduce air pollution through the licensing and use of neighborhood electric vehicles; amending RCW 46.04.320, 46.61.688, 46.61.687, 46.04.332, 46.16.010, 46.20.500, 46.61.710, and 46.81A.010; adding new sections to chapter 46.04 RCW; adding a new section to chapter 46.61 RCW; prescribing penalties; and providing an effective date.

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

Sec. I. RCW 46.04.320 and 2002 c 247 s 2 are each amended to read as follows:

"Motor vehicle" (~~shall~~) means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails. "Motor vehicle" includes a neighborhood electric vehicle as defined in section 2 of this act. An electric personal assistive mobility device is not considered a motor vehicle.

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

"Neighborhood electric vehicle" means a self-propelled, electrically powered four-wheeled motor vehicle whose speed attainable in one mile is more than twenty miles per hour and not more than twenty-five miles per hour and conforms to federal regulations under Title 49 C.F.R. Part 571.500.

NEW SECTION. Sec. 3. A new section is added to chapter 46.61 RCW to read as follows:

(1) Absent prohibition by local authorities authorized under this section and except as prohibited elsewhere in this section, a person may operate a neighborhood electric vehicle upon a highway of this state having a speed limit of thirty-five miles per hour or less if:

(a) The person does not operate a neighborhood electric vehicle upon state highways that are listed in chapter 47.17 RCW;

(b) The person does not operate a neighborhood electric vehicle upon a highway of this state without first having obtained and having in full force and effect a current and proper vehicle license and display vehicle license number plates in compliance with chapter 46.16 RCW;

(c) The person does not operate a neighborhood electric vehicle upon a highway of this state without first obtaining a valid driver's license issued to Washington residents in compliance with chapter 46.20 RCW;

(d) The person does not operate a neighborhood electric vehicle subject to registration under chapter 46.16 RCW on a highway of this state unless the person is insured under a motor vehicle liability policy in compliance with chapter 46.30 RCW; and

(e) The person operating a neighborhood electric vehicle does not cross a roadway with a speed limit in excess of thirty-five miles per hour, unless the crossing begins and ends on a roadway with a speed limit of thirty-five miles per hour or less and occurs at an intersection of approximately ninety degrees, except that the operator of a neighborhood electric vehicle must not cross an uncontrolled intersection of streets and highways that are part of the state highway system subject to Title 47 RCW unless that intersection has been authorized by local authorities provided elsewhere in this section.

(2) Any person who violates this section commits a traffic infraction.

(3) This section does not prevent local authorities, with respect to streets and highways under their jurisdiction and within the reasonable exercise of their police power, from regulating the operation of neighborhood electric vehicles on streets and highways under their jurisdiction by resolution or ordinance of the governing body, if the regulation is consistent with the provisions of this title, except that:

(a) Local authorities may not authorize the operation of neighborhood electric vehicles on streets and highways that are part of the state highway system subject to the provisions of Title 47 RCW;

(b) Local authorities may not prohibit the operation of neighborhood electric vehicles upon highways of this state having a speed limit of twenty-five miles per hour or less; and

(c) Local authorities are prohibited from establishing any requirements for the registration and licensing of neighborhood electric vehicles.

Sec. 4. RCW 46.61.688 and 2002 c 328 s 2 are each amended to read as follows:

(1) For the purposes of this section, the term "motor vehicle" includes:

(a) "Buses," meaning motor vehicles with motive power, except trailers, designed to carry more than ten passengers;

(b) "Multipurpose passenger vehicles," meaning motor vehicles with motive power, except trailers, designed to carry ten persons or less that are constructed either on a truck chassis or with special features for occasional off-road operation;

(c) "Neighborhood electric vehicle," meaning a self-propelled, electrically powered four-wheeled motor vehicle whose speed attainable in one mile is more than twenty miles per hour and not more than twenty-five miles per hour and conforms to federal regulations under Title 49 C.F.R. Part 571.500;

(d) "Passenger cars," meaning motor vehicles with motive power, except multipurpose passenger vehicles, motorcycles, or trailers, designed for carrying ten passengers or less; and

~~((d))~~ (e) "Trucks," meaning motor vehicles with motive power, except trailers, designed primarily for the transportation of property.

(2) This section only applies to motor vehicles that meet the manual seat belt safety standards as set forth in federal motor vehicle safety standard 208 and to neighborhood electric vehicles. This section does not apply to a vehicle occupant for whom no safety belt is available when all designated seating positions as required by federal motor vehicle safety standard 208 are occupied.

(3) Every person sixteen years of age or older operating or riding in a motor vehicle shall wear the safety belt assembly in a properly adjusted and securely fastened manner.

(4) No person may operate a motor vehicle unless all child passengers under the age of sixteen years are either: (a) Wearing a safety belt assembly or (b) are securely fastened into an approved child restraint device.

(5) A person violating this section shall be issued a notice of traffic infraction under chapter 46.63 RCW. A finding that a person has committed a traffic infraction under this section shall be contained in the driver's abstract but shall not be available to insurance companies or employers.

(6) Failure to comply with the requirements of this section does not constitute negligence, nor may failure to wear a safety belt assembly be admissible as evidence of negligence in any civil action.

(7) This section does not apply to an operator or passenger who possesses written verification from a licensed physician that the operator or passenger is unable to wear a safety belt for physical or medical reasons.

(8) The state patrol may adopt rules exempting operators or occupants of farm vehicles, construction equipment, and vehicles that are required to make frequent stops from the requirement of wearing safety belts.

Sec. 5. RCW 46.61.687 and 2000 c 190 s 2 are each amended to read as follows:

(1) Whenever a child who is less than sixteen years of age is being transported in a motor vehicle that is in operation and that is required by RCW 46.37.510 to be equipped with a safety belt system in a passenger seating position, or is being transported in a neighborhood electric vehicle that is in operation, the driver of the vehicle shall keep the child properly restrained as follows:

(a) If the child is less than six years old and/or sixty pounds and the passenger seating position equipped with a safety belt system allows sufficient space for installation, then the child will be restrained in a child restraint system that complies with standards of the United States department of transportation and that is secured in the vehicle in accordance with instructions of the manufacturer of the child restraint system;

(b) If the child is less than one year of age or weighs less than twenty pounds, the child shall be properly restrained in a rear-facing infant seat;

(c) If the child is more than one but less than four years of age or weighs less than forty pounds but at least twenty pounds, the child shall be properly restrained in a forward facing child safety seat restraint system;

(d) If the child is less than six but at least four years of age or weighs less than sixty pounds but at least forty pounds, the child shall be properly restrained in a child booster seat;

(e) If the child is six years of age or older or weighs more than sixty pounds, the child shall be properly restrained with the motor vehicle's safety belt properly adjusted and fastened around the child's body or an appropriately fitting booster seat; and

(f) Enforcement of (a) through (e) of this subsection is subject to a visual inspection by law enforcement to determine if the child restraint system in use is appropriate for the child's individual height, weight, and age. The visual inspection for usage of a forward facing child safety seat must ensure that the seat in use is equipped with a four-point shoulder harness system. The visual inspection for usage of a booster seat must ensure that the seat belt properly fits across the child's lap and the shoulder strap crosses the center of the child's chest. The visual inspection for the usage of a seat belt by a child must ensure that the lap belt properly fits across the child's lap and the shoulder strap crosses the center of the child's chest. In determining violations, consideration to the above criteria must be given in conjunction with the provisions of (a) through (e) of this subsection. The driver of a vehicle transporting a child who is under the age of six years old or weighs less than sixty pounds, when the vehicle is equipped with a passenger side air bag supplemental restraint system, and the air

bag system is activated, shall transport the child in the back seat positions in the vehicle where it is practical to do so.

(2) A person violating subsection (1)(a) through (e) of this section may be issued a notice of traffic infraction under chapter 46.63 RCW. If the person to whom the notice was issued presents proof of acquisition of an approved child passenger restraint system or a child booster seat, as appropriate, within seven days to the jurisdiction issuing the notice and the person has not previously had a violation of this section dismissed, the jurisdiction shall dismiss the notice of traffic infraction.

(3) Failure to comply with the requirements of this section shall not constitute negligence by a parent or legal guardian; nor shall failure to use a child restraint system be admissible as evidence of negligence in any civil action.

(4) This section does not apply to: (a) For hire vehicles, (b) vehicles designed to transport sixteen or less passengers, including the driver, operated by auto transportation companies, as defined in RCW 81.68.010, (c) vehicles providing customer shuttle service between parking, convention, and hotel facilities, and airport terminals, and (d) school buses.

(5) As used in this section "child booster seat" means a child passenger restraint system that meets the Federal Motor Vehicle Safety Standards set forth in 49 C.F.R. 571.213 that is designed to elevate a child to properly sit in a federally approved lap/shoulder belt system.

(6) The requirements of subsection (1)(a) through (e) of this section do not apply in any seating position where there is only a lap belt available and the child weighs more than forty pounds.

NEW SECTION. Sec. 6. A new section is added to chapter 46.04 RCW to read as follows:

"Motorized foot scooter" means a device with no more than two ten-inch or smaller diameter wheels that has handlebars, is designed to be stood or sat upon by the operator, and is powered by an internal combustion engine or electric motor that is capable of propelling the device with or without human propulsion.

For purposes of this section, a motor-driven cycle, a moped, an electric-assisted bicycle, or a motorcycle is not a motorized foot scooter.

Sec. 7. RCW 46.04.332 and 2002 c 247 s 4 are each amended to read as follows:

"Motor-driven cycle" means every motorcycle, including every motor scooter, with a motor that produces not to exceed five brake horsepower (developed by a prime mover, as measured by a brake applied to the driving shaft). A motor-driven cycle does not include a moped, a motorized foot scooter, or an electric personal assistive mobility device.

Sec. 8. RCW 46.16.010 and 2000 c 229 s 1 are each amended to read as follows:

(1) It is unlawful for a person to operate any vehicle over and along a public highway of this state without first having obtained and having in full force and effect a current and proper vehicle license and display vehicle license number plates therefor as by this chapter provided. Failure to make initial registration before operation on the highways of this state is a misdemeanor, and any person

convicted thereof must be punished by a fine of no less than three hundred thirty dollars, no part of which may be suspended or deferred.

Failure to renew an expired registration before operation on the highways of this state is a traffic infraction.

(2) The licensing of a vehicle in another state by a resident of this state, as defined in RCW 46.16.028, evading the payment of any tax or license fee imposed in connection with registration, is a gross misdemeanor punishable as follows:

(a) For a first offense, up to one year in the county jail and a fine equal to twice the amount of delinquent taxes and fees, no part of which may be suspended or deferred;

(b) For a second or subsequent offense, up to one year in the county jail and a fine equal to four times the amount of delinquent taxes and fees, no part of which may be suspended or deferred;

(c) For fines levied under (b) of this subsection, an amount equal to the avoided taxes and fees owed will be deposited in the vehicle licensing fraud account created in the state treasury;

(d) The avoided taxes and fees shall be deposited and distributed in the same manner as if the taxes and fees were properly paid in a timely fashion.

(3) These provisions shall not apply to the following vehicles:

(a) Motorized foot scooters;

(b) Electric-assisted bicycles;

~~((b))~~ (c) Farm vehicles if operated within a radius of fifteen miles of the farm where principally used or garaged, farm tractors and farm implements including trailers designed as cook or bunk houses used exclusively for animal herding temporarily operating or drawn upon the public highways, and trailers used exclusively to transport farm implements from one farm to another during the daylight hours or at night when such equipment has lights that comply with the law;

~~((e))~~ (d) Spray or fertilizer applicator rigs designed and used exclusively for spraying or fertilization in the conduct of agricultural operations and not primarily for the purpose of transportation, and nurse rigs or equipment auxiliary to the use of and designed or modified for the fueling, repairing, or loading of spray and fertilizer applicator rigs and not used, designed, or modified primarily for the purpose of transportation;

~~((d))~~ (e) Fork lifts operated during daylight hours on public highways adjacent to and within five hundred feet of the warehouses which they serve: PROVIDED FURTHER, That these provisions shall not apply to vehicles used by the state parks and recreation commission exclusively for park maintenance and operations upon public highways within state parks;

~~((e))~~ (f) "Special highway construction equipment" defined as follows: Any vehicle which is designed and used primarily for grading of highways, paving of highways, earth moving, and other construction work on highways and which is not designed or used primarily for the transportation of persons or property on a public highway and which is only incidentally operated or moved over the highway. It includes, but is not limited to, road construction and maintenance machinery so designed and used such as portable air compressors, air drills, asphalt spreaders, bituminous mixers, bucket loaders, track laying tractors, ditchers, leveling graders, finishing machines, motor graders, paving

mixers, road rollers, scarifiers, earth moving scrapers and carryalls, lighting plants, welders, pumps, power shovels and draglines, self-propelled and tractor-drawn earth moving equipment and machinery, including dump trucks and tractor-dump trailer combinations which either (i) are in excess of the legal width, or (ii) which, because of their length, height, or unladen weight, may not be moved on a public highway without the permit specified in RCW 46.44.090 and which are not operated laden except within the boundaries of the project limits as defined by the contract, and other similar types of construction equipment, or (iii) which are driven or moved upon a public highway only for the purpose of crossing such highway from one property to another, provided such movement does not exceed five hundred feet and the vehicle is equipped with wheels or pads which will not damage the roadway surface.

Exclusions:

"Special highway construction equipment" does not include any of the following:

Dump trucks originally designed to comply with the legal size and weight provisions of this code notwithstanding any subsequent modification which would require a permit, as specified in RCW 46.44.090, to operate such vehicles on a public highway, including trailers, truck-mounted transit mixers, cranes and shovels, or other vehicles designed for the transportation of persons or property to which machinery has been attached.

(4) The following vehicles, whether operated solo or in combination, are exempt from license registration and displaying license plates as required by this chapter:

(a) A converter gear used to convert a semitrailer into a trailer or a two-axle truck or tractor into a three or more axle truck or tractor or used in any other manner to increase the number of axles of a vehicle. Converter gear includes an auxiliary axle, booster axle, dolly, and jeep axle.

(b) A tow dolly that is used for towing a motor vehicle behind another motor vehicle. The front or rear wheels of the towed vehicle are secured to and rest on the tow dolly that is attached to the towing vehicle by a tow bar.

Sec. 9. RCW 46.20.500 and 2002 c 247 s 6 are each amended to read as follows:

(1) No person may drive a motorcycle or a motor-driven cycle unless such person has a valid driver's license specially endorsed by the director to enable the holder to drive such vehicles.

(2) However, a person sixteen years of age or older, holding a valid driver's license of any class issued by the state of the person's residence, may operate a moped without taking any special examination for the operation of a moped.

(3) No driver's license is required for operation of an electric-assisted bicycle if the operator is at least sixteen years of age. Persons under sixteen years of age may not operate an electric-assisted bicycle.

(4) No driver's license is required to operate an electric personal assistive mobility device.

(5) No driver's license is required to operate a motorized foot scooter. Motorized foot scooters may not be operated at any time from a half hour after sunset to a half hour before sunrise without reflectors of a type approved by the state patrol.

Sec. 10. RCW 46.61.710 and 2002 c 247 s 7 are each amended to read as follows:

(1) No person shall operate a moped upon the highways of this state unless the moped has been assigned a moped registration number and displays a moped permit in accordance with the provisions of RCW 46.16.630.

(2) Notwithstanding any other provision of law, a moped may not be operated on a bicycle path or trail, bikeway, equestrian trail, or hiking or recreational trail.

(3) Operation of a moped, electric personal assistive mobility device, or an electric-assisted bicycle on a fully controlled limited access highway is unlawful. Operation of a moped or an electric-assisted bicycle on a sidewalk is unlawful.

(4) Removal of any muffling device or pollution control device from a moped is unlawful.

(5) Subsections (1), (2), and (4) of this section do not apply to electric-assisted bicycles. Electric-assisted bicycles and motorized foot scooters may have access to highways of the state to the same extent as bicycles. Subject to subsection (6) of this section, electric-assisted bicycles and motorized foot scooters may be operated on a multipurpose trail or bicycle lane, but local jurisdictions may restrict or otherwise limit the access of electric-assisted bicycles and motorized foot scooters, and state agencies may regulate the use of motorized foot scooters on facilities and properties under their jurisdiction and control.

(6) Subsections (1) and (4) of this section do not apply to motorized foot scooters. Subsection (2) of this section applies to motorized foot scooters when the bicycle path, trail, bikeway, equestrian trail, or hiking or recreational trail was built or is maintained with federal highway transportation funds. Additionally, any new trail or bicycle path or readily identifiable existing trail or bicycle path not built or maintained with federal highway transportation funds may be used by persons operating motorized foot scooters only when appropriately signed.

(7) A person operating an electric personal assistive mobility device (EPAMD) shall obey all speed limits and shall yield the right-of-way to pedestrians and human-powered devices at all times. An operator must also give an audible signal before overtaking and passing a pedestrian. Except for the limitations of this subsection, persons operating an EPAMD have all the rights and duties of a pedestrian.

~~((7))~~ (8) The use of an EPAMD may be regulated in the following circumstances:

(a) A municipality and the department of transportation may prohibit the operation of an EPAMD on public highways within their respective jurisdictions where the speed limit is greater than twenty-five miles per hour;

(b) A municipality may restrict the speed of an EPAMD in locations with congested pedestrian or nonmotorized traffic and where there is significant speed differential between pedestrians or nonmotorized traffic and EPAMD operators. The areas in this subsection must be designated by the city engineer or designee of the municipality. Municipalities shall not restrict the speed of an EPAMD in the entire community or in areas in which there is infrequent pedestrian traffic;

(c) A state agency or local government may regulate the operation of an EPAMD within the boundaries of any area used for recreation, open space, habitat, trails, or conservation purposes.

Sec. 11. RCW 46.81A.010 and 1988 c 227 s 2 are each amended to read as follows:

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

(1) "Motorcycle skills education program" means a motorcycle rider skills training program to be administered by the department.

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

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

(4) "Motorcycle" means a motorcycle licensed under chapter 46.16 RCW, and does not include motorized bicycles, mopeds, scooters, motorized foot scooters, off-road motorcycles, motorized tricycles, side-car equipped motorcycles, or four-wheel all-terrain vehicles.

NEW SECTION. Sec. 12. This act takes effect August 1, 2003.

Passed by the Senate April 27, 2003.

Passed by the House April 26, 2003.

Approved by the Governor May 16, 2003.

Filed in Office of Secretary of State May 16, 2003.

CHAPTER 354

[Substitute Senate Bill 5407]

MOTORSPORTS VEHICLES—DEALERS—MANUFACTURERS

AN ACT Relating to franchise agreements between motorsports vehicle dealers and manufacturers; adding a new chapter to Title 46 RCW; and repealing RCW 46.94.001, 46.94.005, 46.94.010, 46.94.020, 46.94.030, 46.94.040, 46.94.050, 46.94.060, and 46.94.900.

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

NEW SECTION. Sec. 1. LEGISLATIVE FINDINGS. The legislature finds and declares that the distribution and sale of motorsports vehicles in this state vitally affect the general economy of the state and the public interest and public welfare, that provision for warranty service to motorsports vehicles is of substantial concern to the people of this state, that the maintenance of fair competition among dealers and others is in the public interest, and that the maintenance of strong and sound dealerships is essential to provide continuing and necessary reliable services to the consuming public in this state and to provide stable employment to the citizens of this state. The legislature further finds that there is a substantial disparity in bargaining power between motorsports vehicle manufacturers and their dealers, and that in order to promote the public interest and the public welfare, and in the exercise of its police power, it is necessary to regulate the relationship between motorsports vehicle dealers and motorsports vehicle manufacturers, importers, distributors, and their representatives doing business in this state, not only for the protection of dealers but also for the benefit for the public in assuring the continued availability and servicing of motorsports vehicles sold to the public.

The legislature recognizes it is in the best interest for manufacturers and dealers of motorsports vehicles to conduct business with each other in a fair,

efficient, and competitive manner. The legislature declares the public interest is best served by dealers being assured of the ability to manage their business enterprises under a contractual obligation with manufacturers where dealers do not experience unreasonable interference and are assured of the ability to transfer ownership of their business without undue constraints. It is the intent of the legislature to impose a regulatory scheme and to regulate competition in the motorsports vehicle industry to the extent necessary to balance fairness and efficiency. These actions will permit motorsports vehicle dealers to better serve consumers and allow dealers to devote their best competitive efforts and resources to the sale and services of the manufacturer's products to consumers.

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

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

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

(3) "Franchise" means one or more agreements, whether oral or written, between a manufacturer and a new motorsports vehicle dealer, under which the new motorsports vehicle dealer is authorized to sell, service, and repair new motorsports vehicles, parts, and accessories under a common name, trade name, trademark, or service mark of the manufacturer.

"Franchise" includes an oral or written contract and includes a dealer agreement, either expressed or implied, between a manufacturer and a new motorsports vehicle dealer that purports to fix the legal rights and liabilities between the parties and under which (a) the dealer is granted the right to purchase and resell motorsports vehicles manufactured, distributed, or imported by the manufacturer; (b) the dealer's business is associated with the trademark, trade name, commercial symbol, or advertisement designating the franchisor or the products distributed by the manufacturer; and (c) the dealer's business relies on the manufacturer for a continued supply of motorsports vehicles, parts, and accessories.

(4) "Good faith" means honesty in fact and fair dealing in the trade as defined and interpreted in RCW 62A.2-103.

(5) "Designated successor" means:

(a) The spouse, biological or adopted child, grandchild, parent, brother, or sister of the owner of a new motorsports vehicle dealership who, in the case of the owner's death, is entitled to inherit the ownership interest in the new motorsports vehicle dealership under the terms of the owner's will or similar document, and if there is no such will or similar document, then under applicable intestate laws;

(b) A qualified person experienced in the business of a new motorsports vehicle dealer who has been nominated by the owner of a new motorsports vehicle dealership as the successor in a written, notarized, and witnessed instrument submitted to the manufacturer; or

(c) In the case of an incapacitated owner of a new motorsports vehicle dealership, the person who has been appointed by a court as the legal representative of the incapacitated owner's property.

(6) "Manufacturer" means a person, firm, association, corporation, or trust, resident or nonresident, who manufactures or assembles new and unused motorsports vehicles or remanufactures motorsports vehicles in whole or in part and further includes the terms:

(a) "Distributor," which means a person, firm, association, corporation, or trust, resident or nonresident, who in whole or in part offers for sale, sells, or distributes new and unused motorsports vehicles to vehicle dealers or who maintains factory representatives.

(b) "Factory branch," which means a branch office maintained by a manufacturer for the purpose of selling or offering for sale, motorsports vehicles to a distributor, wholesaler, or vehicle dealer, or for directing or supervising in whole or in part factory or distributor representatives, and further includes a sales promotion organization, whether a person, firm, or corporation, that is engaged in promoting the sale of new and unused motorsports vehicles in this state of a particular brand or make to vehicle dealers.

(c) "Factory representative," which means a representative employed by a manufacturer, distributor, or factory branch for the purpose of making or promoting for the sale of their motorsports vehicles or for supervising or contracting with their dealers or prospective dealers.

(7) "Motorsports vehicle" means a motorcycle as defined in RCW 46.04.330; a moped as defined in RCW 46.04.304; a motor-driven cycle as defined in RCW 46.04.332; a personal watercraft as defined in RCW 79A.60.010; a snowmobile as defined in RCW 46.10.010; a four-wheel, all-terrain vehicle; and any other motorsports vehicle defined under section 20 of this act by the department that is otherwise not subject to chapter 46.96 RCW.

(8) "New motorsports vehicle dealer" or "dealer" means a person engaged in the business of buying, selling, exchanging, or otherwise dealing in new motorsports vehicles or new and used motorsports vehicles at an established place of business under a franchise, sales and service agreement, or any other contract with a manufacturer of any one or more types of new motorsports vehicles. The term does not include a miscellaneous vehicle dealer as defined in RCW 46.70.011.

(9) "Owner" means a person holding an ownership interest in the business entity operating as a new motorsports vehicle dealer and who is the designated dealer in the new motorsports vehicle franchise agreement.

(10) "Person" means a natural person, partnership, stock company, corporation, trust, agency, or any other legal entity, as well as any individual officers, directors, or other persons in active control of the activities of the entity.

(11) "Place of business" means a permanent, enclosed commercial building, situated within this state, and the real property on which it is located, at which the business of a motorsports vehicle dealer, including the display and repair of motorsports vehicles, may be lawfully conducted in accordance with the terms of all applicable laws and at which the public may contact the motorsports vehicle dealer and employees at all reasonable times.

(12) "Relevant market area" is defined as follows:

(a) If the population in the county in which the existing, proposed new, or relocated dealership is located or is to be located is four hundred thousand or more, the relevant market area is the geographic area within the radius of ten miles around the existing, proposed new, or relocated place of business for the dealership;

(b) If the population in the county in which the existing, proposed new, or relocated dealership is to be located is two hundred thousand or more and less than four hundred thousand, the relevant market area is the geographic area

within a radius of twelve miles around the existing, proposed new, or relocated place of business for the dealership;

(c) If the population in the county in which the existing, proposed new, or relocated dealership is to be located is less than two hundred thousand, the relevant market area is the geographic area within a radius of twenty miles around the existing, proposed new, or relocated place of business for the dealership.

(d) In determining population for this definition, the most recent census by the United States Bureau of Census or the most recent population update, either from the National Planning Data Corporation or other similar recognized source, will be accumulated for all census tracts either wholly or partially within the relevant market area.

NEW SECTION. Sec. 3. TERMINATION, CANCELLATION, NONRENEWAL OF FRANCHISE RESTRICTED. Notwithstanding the terms of a franchise and notwithstanding the terms of a waiver, no manufacturer may terminate, cancel, or fail to renew a franchise with a new motorsports vehicle dealer, unless the manufacturer has complied with the notice requirements of section 7 of this act and an administrative law judge has determined, if requested in writing by the dealer within forty-five days of receiving a notice from a manufacturer, after hearing, that there is good cause for the termination, cancellation, or nonrenewal of the franchise and that the manufacturer has acted in good faith regarding the termination, cancellation, or nonrenewal.

NEW SECTION. Sec. 4. DETERMINATION OF GOOD CAUSE, GOOD FAITH—PETITION, NOTICE, DECISION, APPEAL. A new motorsports vehicle dealer who has received written notification from the manufacturer of the manufacturer's intent to terminate, cancel, or not renew the franchise, may file a petition with the department for a determination as to the existence of good cause and good faith for the termination, cancellation, or nonrenewal of a franchise. The petition must contain a short statement setting forth the reasons for the dealer's objection to the termination, cancellation, or nonrenewal of the franchise. Upon the filing of the petition and the receipt of the filing fee, the department shall promptly notify the manufacturer that a timely petition has been filed and shall request the appointment of an administrative law judge under chapter 34.12 RCW to conduct a hearing. The franchise in question continues in full force and effect pending the administrative law judge's decision. If the decision of the administrative law judge terminating, canceling, or failing to renew a dealer's franchise is appealed by a dealer or manufacturer, the franchise continues in full force and effect until all appeals to a superior court or any appellate court have been completed. Nothing in this section precludes a manufacturer or dealer from petitioning the superior court for a stay or other relief pending judicial review.

NEW SECTION. Sec. 5. DETERMINATION OF GOOD CAUSE, GOOD FAITH—HEARING, DECISION, PROCEDURES—JUDICIAL REVIEW. (1) The administrative law judge shall conduct the hearing and render a final decision as expeditiously as possible, but in any event not later than one hundred eighty days after a petition is filed. If the termination, cancellation, or nonrenewal is under section 7(2) of this act, the administrative law judge shall

give the proceeding priority consideration and shall render a final decision not later than sixty days after a petition is filed.

(2) The administrative law judge shall conduct the hearing as an adjudicative proceeding in accordance with the procedures provided for in the Administrative Procedure Act, chapter 34.05 RCW. The administrative law judge shall render the final decision and shall enter a final order. Except as otherwise provided in RCW 34.05.446 and 34.05.449, all hearing costs must be borne on an equal basis by the parties to the hearing.

(3) A party to a hearing under this chapter may be represented by counsel. A party to a hearing aggrieved by the final order of the administrative law judge concerning the termination, cancellation, or nonrenewal of a franchise may seek judicial review of the order in the superior court or appellate court in the manner provided for in RCW 34.05.510 through 34.05.598. A petitioner for judicial review need not exhaust all administrative appeals or administrative review processes as a prerequisite for seeking judicial review under this section.

NEW SECTION. Sec. 6. GOOD CAUSE, WHAT CONSTITUTES—BURDEN OF PROOF. (1) Notwithstanding the terms of a franchise or the terms of a waiver, and except as otherwise provided in section 7(2) (a) through (d) of this act, good cause exists for termination, cancellation, or nonrenewal of a franchise when there is a failure by the dealer to comply with a provision of the franchise that is both reasonable and of material significance to the franchise relationship, if the dealer was notified of the failure within one hundred eighty days after the manufacturer first acquired knowledge of the failure, and the dealer did not correct the failure after being requested to do so.

If, however, the failure of the dealer relates to the performance of the dealer in sales, service, or level of customer satisfaction, good cause is the failure of the dealer to comply with reasonable performance standards determined by the manufacturer in accordance with uniformly applied criteria, and:

(a) The dealer was advised, in writing, by the manufacturer of the failure;

(b) The notice under this subsection stated that notice was provided of a failure of performance under this section;

(c) The manufacturer provided the dealer with specific, reasonable goals or reasonable performance standards with which the dealer must comply, together with a suggested timetable or program for attaining those goals or standards, and the dealer was given a reasonable opportunity, for a period of not more than ninety days, to comply with the goals or standards; and

(d) The dealer did not substantially comply with the manufacturer's performance standards during that period and the failure to demonstrate substantial compliance was not due to market or economic factors within the dealer's relevant market area that were beyond the control of the dealer.

(2) The manufacturer has the burden of proof of establishing good cause and good faith for the termination, cancellation, or nonrenewal of the franchise under this section.

NEW SECTION. Sec. 7. NOTICE OF TERMINATION, CANCELLATION, OR NONRENEWAL. Before the termination, cancellation, or nonrenewal of a franchise, the manufacturer shall give written notification to both the department and the dealer. The notice must be by certified mail or personally delivered to the new motorsports vehicle dealer and must state the

intention to terminate, cancel, or not renew the franchise, the reasons for the termination, cancellation, or nonrenewal, and the effective date of the termination, cancellation, or nonrenewal. The notice must be given:

(1) Not less than ninety days, which runs concurrently with the ninety-day period provided in section 6(1)(c) of this act, before the effective date of the termination, cancellation, or nonrenewal;

(2) Not less than fifteen days before the effective date of the termination, cancellation, or nonrenewal with respect to any of the following that constitute good cause for termination, cancellation, or nonrenewal:

(a) Insolvency of the dealer or the filing of any petition by or against the dealer under bankruptcy or receivership law;

(b) Failure of the dealer to conduct sales and service operations during customary business hours for seven consecutive business days, except for acts of God or circumstances beyond the direct control of the dealer;

(c) Conviction of the dealer, or principal operator of the dealership, of a felony punishable by imprisonment; or

(d) Suspension or revocation of a license that the dealer is required to have to operate the dealership where the suspension or revocation is for a period in excess of thirty days;

(3) Not less than one hundred eighty days before the effective date of termination, cancellation, or nonrenewal, where the manufacturer intends to discontinue sale and distribution of the new motorsports vehicle line.

NEW SECTION. Sec. 8. PAYMENTS BY MANUFACTURER TO DEALER FOR INVENTORY, EQUIPMENT, ETC. (1) Upon the termination, cancellation, or nonrenewal of a franchise by the manufacturer under this chapter, the manufacturer shall pay the dealer, at a minimum:

(a) Dealer cost, less all allowances paid or credited to the dealer by the manufacturer, of unused, undamaged, and unsold new motorsports vehicles in the dealer's inventory that were acquired from the manufacturer or another dealer of the same line make;

(b) Dealer cost for all unused, undamaged, and unsold supplies, parts, and accessories in original packaging, except that in the case of sheet metal, a comparable substitute for original packaging may be used, if the supply, part, or accessory was acquired from the manufacturer or from another dealer ceasing operations as a part of the dealer's initial inventory, as long as the supplies, parts, and accessories appear in the manufacturer's current parts catalog, list, or current offering;

(c) Dealer cost for all unused, undamaged, and unsold inventory, whether vehicles, parts, or accessories, the purchase of which was required by the manufacturer;

(d) The fair market value of each undamaged sign owned by the dealer that bears a common name, trade name, or trademark of the manufacturer, if acquisition of the sign was recommended or required by the manufacturer and the sign is in good and usable condition less reasonable wear and tear, and has not been depreciated by the dealer more than fifty percent of the value of the sign; and

(e) The fair market value of all special tools owned or leased by the dealer that were acquired from the manufacturer or persons approved by the manufacturer, and that were required by the manufacturer, and are in good and

usable condition, less reasonable wear and tear. However, if the tools are leased by the dealer, the manufacturer shall pay the dealer such amounts that are required by the lessor to terminate the lease under the terms of the lease agreement.

(2) To the extent the franchise agreement provides for payment or reimbursement to the dealer in excess of that specified in this section, the provisions of the franchise agreement will control.

(3) The manufacturer shall pay the dealer the sums specified in subsection (1) of this section within ninety days after the tender of the property, if the dealer has clear title to the property and is in a position to convey that title to the manufacturer.

NEW SECTION. Sec. 9. MITIGATION OF DAMAGES. Sections 3 through 8 of this act do not relieve a dealer from the obligation to mitigate the dealer's damages upon termination, cancellation, or nonrenewal of the franchise.

NEW SECTION. Sec. 10. WARRANTY WORK. (1) Each manufacturer shall specify in its franchise agreement, or in a separate written agreement, with each of its dealers licensed in this state, the dealer's obligation to perform warranty work or service on the manufacturer's products. Each manufacturer shall provide each of its dealers with a schedule of compensation to be paid to the dealer for any warranty work or service, including parts, labor, and diagnostic work, required of the dealer by the manufacturer in connection with the manufacturer's products, and for work on and preparation of motorsports vehicles received from the manufacturer. The compensation may not be less than the rates reasonably charged by the dealer for like services and parts to retail customers. The compensation may not be reduced by the manufacturer for any reason or made conditional on an activity outside the performance of warranty work.

(2) All claims for warranty work for parts and labor made by dealers under this section must be paid by the manufacturer within thirty days after approval, and must be approved or denied within thirty days of receipt by the manufacturer. Denial of a claim must be in writing with the specific grounds for denial. The manufacturer may audit claims for warranty work and charge the dealer for any unsubstantiated, incorrect, or false claims for a period of one year after payment. However, the manufacturer may audit and charge the dealer for any fraudulent claims during any period for which an action for fraud may be commenced under applicable state law.

(3) All claims submitted by dealers on the forms and in the manner specified by the manufacturer must be either approved or disapproved within thirty days after their receipt. The manufacturer shall notify the dealer in writing of a disapproved claim, and shall set forth the reasons why the claim was not approved. A claim not specifically disapproved in writing within thirty days after receipt is approved, and the manufacturer is required to pay that claim within thirty days of receipt of the claim.

NEW SECTION. Sec. 11. DESIGNATED SUCCESSOR TO FRANCHISE OWNERSHIP. (1) Notwithstanding the terms of a franchise, an owner may appoint a designated successor to succeed to the ownership of the dealer franchise upon the owner's death or incapacity.

(2) Notwithstanding the terms of a franchise, a designated successor of a deceased or incapacitated owner of a dealer franchise may succeed to the ownership interest of the owner under the existing franchise, if:

(a) In the case of a designated successor who meets the definition of a designated successor under section 2(5) of this act, but who is not experienced in the business of a new motorsports vehicle dealer, the person will employ an individual who is qualified and experienced in the business of a new motorsports vehicle dealer to help manage the day-to-day operations of the dealership; or in the case of a designated successor who meets the definition of a designated successor under section 2(5) (b) or (c) of this act, the person is qualified and experienced in the business of a new motorsports vehicle dealer and meets the normal, reasonable, and uniformly applied standards for grant of an application as a dealer by the manufacturer; and

(b) The designated successor furnishes written notice to the manufacturer of his or her intention to succeed to the ownership of the dealership within sixty days after the owner's death or incapacity; and

(c) The designated successor agrees to be bound by all terms and conditions of the franchise.

(3) The manufacturer may request, and the designated successor shall promptly provide, such personal and financial information as is reasonably necessary to determine whether the succession should be honored.

(4) A manufacturer may refuse to honor the succession to the ownership of a dealer franchise by a designated successor if the manufacturer establishes that good cause exists for its refusal to honor the succession. If the designated successor of a deceased or incapacitated owner of a dealer franchise fails to meet the requirements set forth in subsection (2)(a), (b), and (c) of this section, good cause for refusing to honor the succession is presumed to exist. If a manufacturer believes that good cause exists for refusing to honor the succession to the ownership of a dealer franchise by a designated successor, the manufacturer shall serve written notice on the designated successor and on the department of its refusal to honor the succession no earlier than sixty days from the date the notice is served. The notice must be served not later than sixty days after the manufacturer's receipt of:

(a) Notice of the designated successor's intent to succeed to the ownership interest of the dealer's franchise; or

(b) Any personal or financial information requested by the manufacturer.

(5) The notice in subsection (4) of this section must state the specific grounds for the refusal to honor the succession. If the notice of refusal is not timely and properly served, the designated successor may continue the franchise in full force and effect, subject to termination only as otherwise provided under this chapter.

(6) Within twenty days after receipt of the notice, or within twenty days after the end of any appeal procedure provided by the manufacturer, whichever is greater, the designated successor may file a petition with the department protesting the refusal to honor the succession. The petition must contain a short statement setting forth the reasons for the designated successor's protest. Upon the filing of a protest and the receipt of the filing fee, the department shall promptly notify the manufacturer that a timely protest has been filed and shall request the appointment of an administrative law judge under chapter 34.12

RCW to conduct a hearing. The manufacturer may not terminate or otherwise discontinue the existing franchise until the administrative law judge has held a hearing and has determined that there is good cause for refusing to honor the succession. If an appeal is taken, the manufacturer may not terminate or discontinue the franchise until all appeals to a superior court or any appellate court have been completed. Nothing in this section precludes a manufacturer or dealer from petitioning the superior court for a stay or other relief pending judicial review.

(7) The manufacturer has the burden of proof to show that good cause exists for the refusal to honor the succession.

(8) The administrative law judge shall conduct the hearing and render a final decision as expeditiously as possible, but in any event not later than one hundred eighty days after a protest is filed.

(9) The administrative law judge shall conduct a hearing concerning the refusal to the succession as provided in section 5(2) of this act, and all hearing costs must be borne as provided in that subsection. A party to such a hearing aggrieved by the final order of the administrative law judge may appeal as provided and allowed in section 5(3) of this act.

(10) This section does not preclude the owner of a dealer franchise from designating any person as his or her successor by a written, notarized, and witnessed instrument filed with the manufacturer. In the event of a conflict between this section and such a written instrument that has not been revoked by written notice from the owner to the manufacturer, the written instrument governs.

NEW SECTION. Sec. 12. RELEVANT MARKET AREA—NEW OR RELOCATED DEALERSHIPS, NOTICE OF. Notwithstanding the terms of a franchise and notwithstanding the terms of a waiver, if a manufacturer intends or proposes to enter into a franchise to establish an additional dealer or to relocate an existing dealer within or into a relevant market area in which the same line make of motorsports vehicle is then represented, the manufacturer shall provide at least ten days advance written notice to the department and to each dealer of the same line make in the relevant market area, of the manufacturer's intention to establish an additional dealer or to relocate an existing dealer within or into the relevant market area. The notice must be sent by certified mail to each such party and include the following information:

(1) The specific location at which the additional or relocated dealer will be established;

(2) The date on or after which the additional or relocated dealer intends to commence business at the proposed location;

(3) The identity of all dealers who are franchised to sell the same line make vehicles as the proposed dealer and who have licensed locations within the relevant market area;

(4) The names and addresses, if available, of the owners of and principal investors in the proposed additional or relocated dealership; and

(5) The specific grounds or reasons for the proposed establishment of an additional dealer or relocation of an existing dealer.

NEW SECTION. Sec. 13. PROTEST OF NEW OR RELOCATED DEALERSHIP—HEARING—ARBITRATION. (1) Within thirty days after

receipt of the notice under section 12 of this act, or within thirty days after the end of an appeal procedure provided by the manufacturer, whichever is greater, a dealer notified or entitled to notice may file a petition with the department protesting the proposed establishment or relocation. The petition must contain a short statement setting forth the reasons for the dealer's objection to the proposed establishment or relocation. Upon the filing of a protest and the receipt of the filing fee, the department shall promptly notify the manufacturer that a timely protest has been filed and shall request the appointment of an administrative law judge under chapter 34.12 RCW to conduct a hearing. The manufacturer may not establish or relocate the dealer until the administrative law judge has held a hearing and administrative proceeding under the Administrative Procedure Act, chapter 34.05 RCW, and has determined that there is good cause for permitting the proposed establishment or relocation. When more than one protest is filed against the establishment or relocation of the same dealer, the administrative law judge shall consolidate the hearings to expedite disposition of the matter.

(2) If a manufacturer provides in the franchise agreement or by written statement distributed and provided to its dealers for arbitration under the Washington Arbitration Act, chapter 7.04 RCW, as a mechanism for resolving disputes relating to the establishment of an additional new motorsports vehicle dealer or the relocation of a new motorsports vehicle dealer, subsection (1) of this section and section 14 of this act will take precedence and the arbitration provision in the franchise agreement or a written statement is void, unless the manufacturer and dealer agree to use arbitration.

(3) If the manufacturer and dealer agree to use arbitration, the dispute must be referred for arbitration to such arbitrator as may be agreed upon by the parties to the dispute. The thirty-day period for filing a protest under subsection (1) of this section still applies except the protesting dealer shall file the protest with the manufacturer. If the parties cannot agree upon a single arbitrator within thirty days from the date the protest is filed, the protesting dealer will select an arbitrator, the manufacturer will select an arbitrator, and the two arbitrators will then select a third arbitrator. If a third arbitrator is not agreed upon within thirty days, any party may apply to the superior court, and the judge of the superior court having jurisdiction will appoint the third arbitrator. The protesting dealer will pay the arbitrator selected by him or her, and the manufacturer will pay the arbitrator it selected. The expense of the third arbitrator and all other expenses of arbitration will be shared equally by the parties. Attorneys' fees and fees paid to expert witnesses are not expenses of arbitration and will be paid by the person incurring them.

(4) Notwithstanding the terms of a franchise or written statement of the manufacturer and notwithstanding the terms of a waiver, the arbitration will take place in this state in the county where the protesting dealer has its principal place of business. Section 14 of this act applies to a determination made by the arbitrator or arbitrators in determining whether good cause exists for permitting the proposed establishment or relocation of a dealer, and the manufacturer has the burden of proof to establish that good cause exists for permitting the proposed establishment or relocation. After a hearing has been held, the arbitrator or arbitrators shall render a decision as expeditiously as possible, but in any event not later than one hundred twenty days from the date the arbitrator or arbitrators are selected or appointed. The manufacturer may not establish or

relocate the new motorsports vehicle dealer until the arbitration hearing has been held and the arbitrator or arbitrators have determined that there is good cause for permitting the proposed establishment or relocation and any judicial appeals under chapter 7.04 RCW have been completed. The written decision of the arbitrator is binding upon the parties unless modified, corrected, or vacated under the Washington Arbitration Act. Any party may appeal the decision of the arbitrator or arbitrators under the Washington Arbitration Act, chapter 7.04 RCW.

NEW SECTION. Sec. 14. FACTORS CONSIDERED BY ADMINISTRATIVE LAW JUDGE. In determining whether good cause exists for permitting the proposed establishment or relocation of a dealer of the same line make, the factors that the administrative law judge shall consider must include, but are not limited to the following:

(1) The extent, nature, and permanency of the investment of both the existing dealers of the same line make in the relevant market area and the proposed additional or relocating dealer, including obligations reasonably incurred by the existing dealers to perform their obligations under their respective franchises;

(2) The growth or decline in population and new motorsports vehicle registrations during the past five years in the relevant market area;

(3) The effect on the consuming public;

(4) The effect on the existing dealers in the relevant market area, including any adverse financial impact;

(5) The reasonably expected or anticipated vehicle market for the relevant market area, including demographic factors such as age of population, income, education, size class preference, product popularity, retail lease transactions, or other factors affecting sales to consumers in the relevant market area;

(6) Whether it is injurious or beneficial to the public welfare for an additional dealership to be established;

(7) Whether the dealers of the same line make in the relevant market area are providing adequate competition and convenient customer care for the motorsports vehicles of the same line make in the relevant market area, including the adequacy of motorsports vehicle sales and service facilities, equipment, supply of vehicle parts, and qualified service personnel;

(8) Whether the establishment of an additional dealer would increase competition and be in the public interest;

(9) Whether the manufacturer is motivated principally by good faith to establish an additional or new dealer and not by noneconomic considerations;

(10) Whether the manufacturer has denied its existing dealers of the same line make the opportunity for reasonable growth, market expansion, or relocation;

(11) Whether the protesting dealer or dealers are in substantial compliance with their dealer agreements or franchises; and

(12) Whether the manufacturer has complied with the requirements of sections 12 and 13 of this act.

NEW SECTION. Sec. 15. HEARING—PROCEDURES, COSTS, APPEAL. (1) The manufacturer has the burden of proof to establish that good cause exists for permitting the proposed establishment or relocation.

(2) The administrative law judge shall conduct any hearing as provided in section 5(2) of this act and all hearing costs will be borne as provided in that subsection. The administrative law judge shall render the final decision as expeditiously as possible, but in any event not later than one hundred twenty days after a protest is filed. If more than one protest is filed, the one hundred twenty days commences to run from the date the last protest is filed. A party to such a hearing aggrieved by the final order of the administrative law judge may appeal as provided and allowed in section 5(3) of this act.

NEW SECTION. Sec. 16. EXCEPTIONS. Sections 12 through 15 of this act do not apply:

(1) To the sale or transfer of the ownership or assets of an existing dealer where the transferee proposes to engage in business representing the same line make at the same location or within two miles of that location;

(2) To the relocation of an existing dealer within the dealer's relevant market area, if the relocation is not at a site within eight miles of any dealer of the same line make;

(3) If the proposed dealer is to be established at or within two miles of a location at which a former dealer of the same line make had ceased operating within the previous twenty-four months;

(4) Where the proposed relocation is two miles or less from the existing location of the relocating dealer; or

(5) Where the proposed relocation is to be further away from all other existing dealers of the same line make in the relevant market area.

NEW SECTION. Sec. 17. UNFAIR PRACTICES. (1) Notwithstanding the terms of a franchise agreement, a manufacturer, distributor, factory branch, or factory representative, or an agent, officer, parent company, wholly or partially owned subsidiary, affiliated entity, or other person controlled by or under common control with a manufacturer, distributor, factory branch, or factory representative, shall not:

(a) Discriminate between dealers by selling or offering to sell a like motorsports vehicle to one dealer at a lower actual price than the actual price offered to another dealer for the same model similarly equipped;

(b) Discriminate between dealers by selling or offering to sell parts or accessories to one dealer at a lower actual price than the actual price offered to another dealer;

(c) Discriminate between dealers by using a promotion plan, marketing plan, or other similar device that results in a lower actual price on vehicles, parts, or accessories being charged to one dealer over another dealer;

(d) Discriminate between dealers by adopting a method, or changing an existing method, for the allocation, scheduling, or delivery of new motorsports vehicles, parts, or accessories to its dealers that is not fair, reasonable, and equitable. Upon the request of a dealer, a manufacturer shall disclose in writing to the dealer the method by which new motorsports vehicles, parts, and accessories are allocated, scheduled, or delivered to its dealers handling the same line or make of vehicles;

(e) Give preferential treatment to some dealers over others by refusing or failing to deliver, in reasonable quantities and within a reasonable time after receipt of an order, to a dealer holding a franchise for a line or make of

motorsports vehicles sold or distributed by the manufacturer, a new vehicle, parts, or accessories, if the vehicle, parts, or accessories are being delivered to other dealers, or require a dealer to purchase unreasonable advertising displays or other materials, or unreasonably require a dealer to remodel or renovate existing facilities as a prerequisite to receiving a model or series of vehicles;

(f) Compete with a dealer by acting in the capacity of a dealer, or by owning, operating, or controlling, whether directly or indirectly, a dealership in this state. It is not, however, a violation of this subsection for:

(i) A manufacturer to own or operate a dealership for a temporary period, not to exceed two years, during the transition from one owner of the dealership to another where the dealership was previously owned by a franchised dealer and is currently for sale to any qualified independent person at a fair and reasonable price. The temporary operation may be extended for one twelve-month period on petition of the temporary operator to the department. The matter will be handled as an adjudicative proceeding under chapter 34.05 RCW. A dealer who is a franchisee of the petitioning manufacturer or distributor may intervene and participate in a proceeding under this subsection (1)(f)(i). The temporary operator has the burden of proof to show justification for the extension and a good faith effort to sell the dealership to an independent person at a fair and reasonable price;

(ii) A manufacturer to own or operate a dealership in conjunction with an independent person in a bona fide business relationship for the purpose of broadening the diversity of its dealer body and enhancing opportunities for qualified persons who are part of a group who have historically been underrepresented in its dealer body, or other qualified persons who lack the resources to purchase a dealership outright, and where the independent person (A) has made a significant, bona fide capital investment in the dealership that is subject to loss; (B) has an ownership interest in the dealership; and (C) operates the dealership under a bona fide written agreement with the manufacturer, distributor, factory branch, or factory representative under which he or she will acquire all of the ownership interest in the dealership within a reasonable period of time and under reasonable terms and conditions. The manufacturer has the burden of proof of establishing that the acquisition of the dealership by the independent person was made within a reasonable period of time and under reasonable terms and conditions;

(iii) A manufacturer to own or operate a dealership in conjunction with an independent person in a bona fide business relationship where the independent person (A) has made a significant, bona fide capital investment in the dealership that is subject to loss; (B) has an ownership interest in the dealership; and (C) operates the dealership under a bona fide written agreement with the manufacturer under which he or she will acquire all of the ownership interest in the dealership within a reasonable period of time and under reasonable terms and conditions. The manufacture has the burden of proof of establishing that the acquisition of the dealership by the independent person was made within a reasonable period of time and under reasonable terms and conditions. The number of dealerships operated under this subsection (1)(f)(iii) may not exceed four percent rounded up to the nearest whole number of a manufacturer's total of dealer franchises in this state;

(iv) A manufacturer to own, operate, or control a dealership trading exclusively in a single line make of the manufacturer if (A) the manufacturer does not own, directly or indirectly, in the aggregate, in excess of forty-five percent of the total ownership interest in the dealership; (B) at the time the manufacturer first acquires ownership or assumes operation or control of any such dealership, the distance between any dealership thus owned, operated, or controlled and the nearest dealership trading in the same line make of vehicle and in which the manufacturer has no ownership or control complies with the applicable provisions in the relevant market area sections of this chapter; (C) all of the manufacturer's franchise agreements confer rights on the dealer of that line make to develop and operate within a defined geographic territory or area, as many dealership facilities as the dealer and the manufacturer agree are appropriate; and (D) the manufacturer had no more than four new motorsports vehicle dealers of that manufacturer's line make in this state, and at least half of those dealers owned and operated two or more dealership facilities in the geographic territory or area covered by their franchise agreements with the manufacturer;

(g) Compete with a dealer by owning, operating, or controlling, whether directly or indirectly, a service facility in this state for the repair or maintenance of motorsports vehicles under the manufacturer's new motorsports vehicle warranty and extended warranty. Nothing in this subsection (1)(g), however, prohibits a manufacturer from owning or operating a service facility for the purpose of providing or performing maintenance, repair, or service work on motorsports vehicles that are owned by the manufacturer;

(h) Use confidential or proprietary information obtained from a dealer to unfairly compete with the dealer without the prior written consent of the dealer. For purposes of this subsection (1)(h), "confidential or proprietary information" means trade secrets as defined in RCW 19.108.010, business plans, marketing plans or strategies, customer lists, contracts, sales data, revenues, or other financial information;

(i) Coerce, threaten, intimidate, or require, either directly or indirectly, a dealer to accept, buy, or order any motorsports vehicle, part, or accessory, or any other commodity or service not voluntarily ordered, or requested, or to buy, order, or pay anything of value for such items in order to obtain a motorsports vehicle, part, accessory, or other commodity that has been voluntarily ordered or requested;

(j) Coerce, threaten, intimidate, or require, either directly or indirectly, a dealer to enter into any agreement that violates this chapter;

(k) Require a change in capital structure or means of financing for the dealership if the dealer at all times meets the reasonable, written, and uniformly applied capital standards determined by the manufacturer;

(l) Prevent or attempt to prevent a dealer from making reasonable changes in the capital structure of a dealership or the means by which the dealership is financed if the dealer meets the reasonable, written, and uniformly applied capital requirements determined by the manufacturer;

(m) Unreasonably require the dealer to change the location or require any substantial alterations to the place of business;

(n) Condition a renewal or extension of the franchise on the dealer's substantial renovation of the existing place of business or on the construction,

purchase, acquisition, or re-lease of a new place of business unless written notice is first provided one hundred eighty days before the date of renewal or extension and the manufacturer demonstrates the reasonableness of the requested actions. The manufacturer shall agree to supply the dealer with an adequate quantity of motorsports vehicles, parts, and accessories to meet the sales level necessary to support the overhead resulting from substantial construction, acquisition, or lease of a new place of business;

(o) Coerce, threaten, intimidate, or require, either directly or indirectly, a dealer to order or accept delivery of a motorsports vehicle with special features, accessories, or equipment not included in the list price of the vehicle as advertised by the manufacturer, except items that have been voluntarily requested or ordered by the dealer, and except items required by law;

(p) Fail to hold harmless and indemnify a dealer against losses, including lawsuits and court costs, arising from: (i) The manufacture or performance of a motorsports vehicle, part, or accessory if the lawsuit involves representations by the manufacturer on the manufacture or performance of a motorsports vehicle without negligence on the part of the dealer; (ii) damage to merchandise in transit where the manufacturer specifies the carrier; (iii) the manufacturer's failure to jointly defend product liability suits concerning the motorsports vehicle, part, or accessory provided to the dealer; or (iv) any other act performed by the manufacturer;

(q) Unfairly prevent or attempt to prevent a dealer from receiving reasonable compensation for the value of a motorsports vehicle;

(r) Fail to pay to a dealer, within a reasonable time after receipt of a valid claim, a payment agreed to be made by the manufacturer on grounds that a new motorsports vehicle, or a prior year's model, is in the dealer's inventory at the time of introduction of new model motorsports vehicles;

(s) Deny a dealer the right of free association with any other dealer for any lawful purpose;

(t) Charge increased prices without having given written notice to the dealer at least fifteen days before the effective date of the price increases;

(u) Permit factory authorized warranty service to be performed upon motorsports vehicles or accessories by persons other than their franchised dealers;

(v) Require or coerce a dealer to sell, assign, or transfer a retail sales installment contract, or require the dealer to act as an agent for a manufacturer, in the securing of a promissory note, a security agreement given in connection with the sale of a motorsports vehicle, or securing of a policy of insurance for a motorsports vehicle. The manufacturer may not condition delivery of any motorsports vehicle, parts, or accessories upon the dealer's assignment, sale, or other transfer of sales installment contracts to specific finance companies;

(w) Require or coerce a dealer to grant a manufacturer a right of first refusal or other preference to purchase the dealer's franchise or place of business, or both.

(2) Subsections (1)(a), (b), and (c) of this section do not apply to sales to a dealer: (a) For resale to a federal, state, or local government agency; (b) where the motorsports vehicles will be sold or donated for use in a program of driver's education; (c) where the sale is made under a manufacturer's bona fide promotional program offering sales incentives or rebates; (d) where the sale of

parts or accessories is under a manufacturer's bona fide quantity discount program; or (e) where the sale is made under a manufacturer's bona fide fleet vehicle discount program. For purposes of this subsection, "fleet" means a group of fifteen or more new motorsports vehicles purchased or leased by a dealer at one time under a single purchase or lease agreement for use as part of a fleet, and where the dealer has been assigned a fleet identifier code by the department.

(3) The following definitions apply to this section:

(a) "Actual price" means the price to be paid by the dealer less any incentive paid by the manufacturer, whether paid to the dealer or the ultimate purchaser of the motorsports vehicle.

(b) "Control" or "controlling" means (i) the possession of, title to, or control of ten percent or more of the voting equity interest in a person, whether directly or indirectly through a fiduciary, agent, or other intermediary, or (ii) the possession, direct or indirect, of the power to direct or cause the direction of the management or policies of a person, whether through the ownership of voting securities, through director control, by contract, or otherwise, except as expressly provided under the franchise agreement.

(c) "Operate" means to manage a dealership, whether directly or indirectly.

(d) "Own" or "ownership" means to hold the beneficial ownership of one percent or more of any class of equity interest in a dealership, whether the interest is that of a shareholder, partner, limited liability company member, or otherwise. To hold an ownership interest means to have possession of, title to, or control of the ownership interest, whether directly or indirectly through a fiduciary, agent, or other intermediary.

(4) A violation of this section is deemed to affect the public interest and constitutes an unlawful and unfair practice under chapter 19.86 RCW. A person aggrieved by an alleged violation of this section may petition the department to have the matter handled as an adjudicative proceeding under chapter 34.05 RCW.

NEW SECTION. Sec. 18. SALE, TRANSFER, OR EXCHANGE OF FRANCHISE. (1) Notwithstanding the terms of a franchise, a manufacturer may not unreasonably withhold consent to the sale, transfer, or exchange of a franchise to a qualified buyer who meets the normal, reasonable, and uniformly applied standards established by the manufacturer for the appointment of a dealer or is capable of being approved by the department as a dealer in this state. A manufacturer's failure to respond in writing to a request for consent under this subsection within sixty days after receipt of a written request on the forms, if any, generally used by the manufacturer containing the information and reasonable promises required by a manufacturer, is deemed to be consent to the request. A manufacturer may request, and, if so requested, the applicant for a franchise (a) shall promptly provide such personal and financial information as is reasonably necessary to determine whether the sale, transfer, or exchange should be approved, and (b) shall agree to be bound by all reasonable terms and conditions of the franchise.

(2) If a manufacturer refuses to approve the sale, transfer, or exchange of a franchise, the manufacturer shall serve written notice on the applicant, the transferring, selling, or exchanging dealer, and the department, of its refusal to approve the transfer of the franchise no later than sixty days after the date the

manufacturer receives the written request from the dealer. If the manufacturer has requested personal or financial information from the applicant under subsection (1) of this section, the notice must be served not later than sixty days after the receipt of all of such documents. Service of all notices under this section must be made by personal service or by certified mail, return receipt requested.

(3) The notice in subsection (2) of this section must state the specific grounds for the refusal to approve the sale, transfer, or exchange of the franchise.

(4) Within twenty days after receipt of the notice of refusal to approve the sale, transfer, or exchange of the franchise by the transferring dealer, the dealer may file a petition with the department to protest the refusal to approve the sale, transfer, or exchange. The petition must contain a short statement setting forth the reasons for the dealer's protest. Upon the filing of a protest and the receipt of the filing fee, the department shall promptly notify the manufacturer that a timely protest has been filed, and the department shall arrange for a hearing with an administrative law judge as the presiding officer to determine if the manufacturer unreasonably withheld consent to the sale, transfer, or exchange of the franchise.

(5) In determining whether the manufacturer unreasonably withheld its approval to the sale, transfer, or exchange, the manufacturer has the burden of proof that it acted reasonably. A manufacturer's refusal to accept or approve a proposed buyer who otherwise meets the normal, reasonable, and uniformly applied standards established by the manufacturer for the appointment of a new dealer, or who otherwise is capable of operating as a dealer in this state, is presumed to be unreasonable.

(6) The administrative law judge shall conduct a hearing and render a final decision as expeditiously as possible, but in any event not later than one hundred twenty days after a protest is filed. Only the selling, transferring, or exchanging dealer and the manufacturer may be parties to the hearing.

(7) The administrative law judge shall conduct any hearing as provided in section 5(2) of this act, and all hearing costs must be borne as provided in that subsection. Only the manufacturer and the selling, transferring, or exchanging dealer may appeal the final order of the administrative law judge to the superior court or the appellate court as provided in the Administrative Procedure Act, chapter 34.05 RCW.

NEW SECTION. Sec. 19. PETITION AND HEARING FILING FEES, COSTS, SECURITY. The department shall determine and establish the amount of the filing fees required in sections 4, 11, 13, and 18 of this act. The fees must be set in accordance with RCW 43.24.086.

The department may also require the petitioning or protesting party to give security, in such sum as the department deems proper but not to exceed one thousand dollars, for the payment of such costs as may be incurred in conducting the hearing as required under this chapter. The security may be given in the form of a bond or stipulation or other undertaking with one or more sureties.

At the conclusion of the hearing, the department shall assess, in equal shares, each of the parties to the hearing for the cost of conducting the hearing. Upon receipt of payment of the costs, the department shall refund and return to the petitioning party any excess funds initially posted by the party as security for the hearing costs. If the petitioning party provided security in the form of a bond

or other undertaking with one or more sureties, the bond or other undertaking will then be exonerated and the surety or sureties under it discharged.

NEW SECTION. Sec. 20. DEPARTMENT DEFINING ADDITIONAL MOTORSPORTS VEHICLES. The department shall determine through rule making under the Administrative Procedure Act any motorsports vehicles not already defined in section 2(7) of this act as of the effective date of this act, that are manufactured after the effective date of this act.

NEW SECTION. Sec. 21. 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. 22. CAPTIONS. Captions used in this chapter are not part of the law.

NEW SECTION. Sec. 23. Sections 1 through 22 of this act constitute a new chapter in Title 46 RCW.

NEW SECTION. Sec. 24. The following acts or parts of acts are each repealed:

- (1) RCW 46.94.001 (Short title) and 1985 c 472 s 1;
- (2) RCW 46.94.005 (Legislative intent) and 1985 c 472 s 2;
- (3) RCW 46.94.010 (Definitions) and 1985 c 472 s 3;
- (4) RCW 46.94.020 (Prohibited trade practices) and 1985 c 472 s 4;
- (5) RCW 46.94.030 (Succession to business by designated family member) and 1985 c 472 s 5;
- (6) RCW 46.94.040 (Compensation for warranty, delivery, preparation expenses) and 1985 c 472 s 8;
- (7) RCW 46.94.050 (Prohibited financial practices) and 1985 c 472 s 9;
- (8) RCW 46.94.060 (Civil remedies) and 1985 c 472 s 10; and
- (9) RCW 46.94.900 (Severability—1985 c 472) and 1985 c 472 s 14.

Passed by the Senate March 17, 2003.

Passed by the House April 11, 2003.

Approved by the Governor May 16, 2003.

Filed in Office of Secretary of State May 16, 2003.

CHAPTER 355

[Substitute Senate Bill 5457]

MOTORCYCLES—CONSTRUCTION SIGNS

AN ACT Relating to posting of hazards to motorcycles; amending RCW 47.36.200; creating a new section; and providing an effective date.

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

Sec. 1. RCW 47.36.200 and 1984 c 7 s 202 are each amended to read as follows:

(1) When construction, repair, or maintenance work is conducted on or adjacent to a public highway, county road, street, bridge, or other thoroughfare commonly traveled and when the work interferes with the normal and established mode of travel on the highway, county road, street, bridge, or thoroughfare, the location shall be properly posted by prominently displayed

signs or flagmen or both. Signs used for posting in such an area shall be consistent with the provisions found in the state of Washington "Manual on Uniform Traffic Control Devices for Streets and Highways" obtainable from the department of transportation.

(2) If the construction, repair, or maintenance work includes or uses grooved pavement, abrupt lane edges, steel plates, or gravel or earth surfaces, the construction, repair, or maintenance zone must be posted with signs stating the condition, as required by current law, and in addition, must warn motorcyclists of the potential hazard. For the purposes of this subsection, the department shall adopt by rule a uniform sign or signs for this purpose, including at least the following language, "MOTORCYCLES USE EXTREME CAUTION."

NEW SECTION. Sec. 2. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2003, in the omnibus transportation appropriations act, this act is null and void.

NEW SECTION. Sec. 3. This act takes effect January 1, 2004.

Passed by the Senate April 21, 2003.

Passed by the House April 14, 2003.

Approved by the Governor May 16, 2003.

Filed in Office of Secretary of State May 16, 2003.

CHAPTER 356

[Senate Bill 5284]

TRACTION ADVISORIES

AN ACT Relating to failure to use required traction equipment; amending RCW 47.36.250; and prescribing penalties.

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

Sec. 1. RCW 47.36.250 and 1987 c 330 s 747 are each amended to read as follows:

If the department or its delegate determines at any time for any part of the public highway system that the unsafe conditions of the roadway require particular tires, tire chains, or traction equipment in addition to or beyond the ordinary pneumatic rubber tires, the department may establish the following recommendations or requirements with respect to the use of such equipment for all persons using such public highway:

~~((1) Dangerous road conditions, chains or other approved traction devices recommended:~~

~~(2) Dangerous road conditions, chains or other approved traction devices required:~~

~~(3) Dangerous road conditions, chains required.))~~

(1) Traction advisory - oversize vehicles prohibited.

(2) Traction advisory - oversize vehicles prohibited. Vehicles over 10,000 GVW - chains required.

(3) Traction advisory - oversize vehicles prohibited. All vehicles - chains required, except all wheel drive.

Any equipment that may be required by this section shall be approved by the state patrol as authorized under RCW 46.37.420.

The department shall place and maintain signs and other traffic control devices on the public highways that indicate the tire, tire chain, or traction equipment recommendation or requirement determined under this section. Such signs or traffic control devices shall in no event prohibit the use of studded tires from November 1st to April 1st, but when the department determines that chains are required and that no other traction equipment will suffice, the requirement is applicable to all types of tires including studded tires. The ~~((signs or traffic control devices))~~ Washington state patrol or the department may specify different recommendations or requirements for four wheel drive vehicles in gear.

Failure to obey a requirement indicated ~~((by a sign or other traffic control device placed or maintained))~~ under this section is a ~~((misdemeanor))~~ traffic infraction under chapter 46.63 RCW subject to a penalty of five hundred dollars including all statutory assessments.

Passed by the Senate March 16, 2003.

Passed by the House April 17, 2003.

Approved by the Governor May 16, 2003.

Filed in Office of Secretary of State May 16, 2003.

CHAPTER 357

[Substitute Senate Bill 5497]

RELOCATION EXPENSES

AN ACT Relating to moving and relocation expenses; and amending RCW 8.26.035.

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

Sec. 1. RCW 8.26.035 and 1988 c 90 s 3 are each amended to read as follows:

(1) Whenever a program or project to be undertaken by a displacing agency will result in the displacement of any person, the displacing agency shall provide for the payment to the displaced person of:

(a) Actual reasonable expenses in moving himself or herself, or his or her family, business, farm operation, or other personal property;

(b) Actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, but not to exceed an amount equal to the reasonable expenses that would have been required to relocate the property, in accordance with criteria established by the lead agency;

(c) Actual reasonable expenses in searching for a replacement business or farm; and

(d) Actual reasonable expenses necessary to reestablish a displaced farm, nonprofit organization, or small business at its new site, in accordance with criteria established by the lead agency, but not to exceed ~~((ten))~~ fifty thousand dollars.

(2) A displaced person eligible for payments under subsection (1) of this section who is displaced from a dwelling and who elects to accept the payments authorized by this subsection in lieu of the payments authorized by subsection (1) of this section may receive an expense and dislocation allowance determined according to a schedule established by the lead agency.

(3) A displaced person eligible for payments under subsection (1) of this section who is displaced from the person's place of business or farm operation

and who is eligible under criteria established by the lead agency may elect to accept the payment authorized by this subsection in lieu of the payment authorized by subsection (1) of this section. The payment shall consist of a fixed payment in an amount to be determined according to criteria established by the lead agency, except that the payment shall be not less than one thousand dollars nor more than twenty thousand dollars. A person whose sole business at the displacement dwelling is the rental of that property to others does not qualify for a payment under this subsection.

Passed by the Senate March 19, 2003.

Passed by the House April 26, 2003.

Approved by the Governor May 16, 2003.

Filed in Office of Secretary of State May 16, 2003.

CHAPTER 358

[Substitute Senate Bill 5190]

FUEL TAX EVASION

AN ACT Relating to fuel tax evasion; amending RCW 82.36.380 and 82.38.270; adding new sections to chapter 82.36 RCW; adding new sections to chapter 82.38 RCW; creating a new section; repealing RCW 82.36.306 and 82.38.182; 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 82.36 RCW to read as follows:

SEIZURE AND FORFEITURE. (1) The following are subject to seizure and forfeiture:

(a) Motor vehicle fuel imported into this state by a person not licensed in this state in accordance with this chapter to import fuel;

(b) Motor vehicle fuel that is blended or manufactured by a person not licensed in this state in accordance with this chapter to blend or manufacture fuel;

(c) All conveyances that are used, or intended for use, to transport, or in any manner to facilitate the transportation, for the purpose of sale or receipt of property described in (a) and (b) of this subsection, except where the owner of the conveyance neither had knowledge of nor consented to the transportation of the fuel by an unlicensed importer, blender, or manufacturer of fuel.

(2) Before seizing a common carrier conveyance, contract carrier conveyance, or a conveyance secured by a bona fide security interest where the secured party neither had knowledge of or consented to the unlawful act or omission, the state patrol or the department of licensing shall give the common carrier, contract carrier, or secured party, or their representatives within twenty-four hours, a notice in writing served by mail or other means to cease transporting fuel for any person not licensed to import, blend, or manufacture fuel in this state.

(3) Property subject to forfeiture under this chapter may be seized by the state patrol upon process issued by a superior court or district court having jurisdiction over the property. Seizure without process may be made if:

(a) The seizure is incident to an arrest or a search under a search warrant; or

(b) The state patrol has probable cause to believe that the property was used or is intended to be used in violation of this chapter and exigent circumstances exist making procurement of a search warrant impracticable.

NEW SECTION. Sec. 2. A new section is added to chapter 82.36 RCW to read as follows:

FORFEITURE PROCEDURE. In all cases of seizure of property made subject to forfeiture under this chapter, the state patrol shall proceed as follows:

(1) Forfeiture is deemed to have commenced by the seizure.

(2) The state patrol shall list and particularly describe in duplicate the conveyance seized. After the appropriate appeal period has expired, a seized conveyance must be sold at a public auction in accordance with chapter 43.19 RCW.

(3) The state patrol shall list and particularly describe in duplicate the fuel seized. The selling price of the fuel seized will be the average terminal rack price for similar fuel, at the closest terminal rack on the day of sale, unless circumstance warrants that a different selling price is appropriate. The method used to value the fuel must be documented. The fuel will be sold at the earliest point in time, and the total price must include all appropriate state and federal taxes. The state patrol or the department may enter into contracts for the transportation, handling, storage, and sale of fuel subject to forfeiture. The money received must be deposited in the motor vehicle account, after deduction for expenses provided for in this section.

(4) The state patrol shall, within five days after the seizure of a conveyance or fuel, cause notice to be served on the owner of the property seized, if known, on the person in charge of the property, and on any other person having any known right or interest in the property, of the seizure and intended forfeiture. The notice may be served by any method authorized by law or court rule including but not limited to service by mail. If service is by mail it must be by both certified mail with return receipt requested and regular mail. Service by mail is deemed complete upon mailing within the five-day period after the date of seizure.

(5) If no person notifies the state patrol in writing of the person's claim of ownership or right to possession of the items seized within fifteen days of the date of the notice of seizure, the items seized are considered forfeited.

(6) If any person notifies the state patrol, in writing, of the person's claim of ownership or right to possession of the items seized within fifteen days of the date of the notice of seizure, the person or persons must be given a reasonable opportunity to be heard as to the claim or right. The hearing must be before the director of licensing, or the director's designee. A hearing and any appeals must be in accordance with chapter 34.05 RCW. The burden of proof by a preponderance of the evidence is upon the person claiming to be the lawful owner or the person claiming to have the lawful right to possession of the items seized. The state patrol and the department shall promptly return the conveyance seized, and money from the sale of fuel seized, to the claimant upon a determination that the claimant is the present lawful owner and is lawfully entitled to possession of the items seized.

NEW SECTION. Sec. 3. A new section is added to chapter 82.36 RCW to read as follows:

FORFEITED PROPERTY—RETENTION, SALE, OR DESTRUCTION—USE OF SALE PROCEEDS. When property is forfeited under this chapter, the state patrol or the department may use the proceeds of the sale and all moneys forfeited for the payment of all proper expenses of any investigation leading to the seizure and of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising, and court costs. Proper expenses of investigation include costs incurred by a law enforcement agency or a federal, state, or local agency. The balance of the proceeds must be deposited in the motor vehicle account.

NEW SECTION. Sec. 4. A new section is added to chapter 82.36 RCW to read as follows:

RETURN OF SEIZED PROPERTY—PENALTY, INTEREST. (1) The state patrol and the department may return property seized and proceeds from the sale of fuel under this chapter when it is shown that there was no intention to violate this chapter.

(2) When property is returned under this section, the state patrol and the department may return the goods to the parties from whom they were seized if and when the parties pay all applicable taxes and interest.

NEW SECTION. Sec. 5. A new section is added to chapter 82.36 RCW to read as follows:

SEARCH AND SEIZURE. When the state patrol has good reason to believe that motor vehicle fuel is being unlawfully imported, kept, sold, offered for sale, blended, or manufactured in violation of this chapter or rules adopted under it, the state patrol may make an affidavit of that fact, describing the place or thing to be searched, before a judge of any court in this state, and the judge shall issue a search warrant directed to the state patrol commanding the officer diligently to search any place or vehicle designated in the affidavit and search warrant, and to seize the fuel and conveyance so possessed and to hold them until disposed of by law, and to arrest the person in possession or control of them.

NEW SECTION. Sec. 6. A new section is added to chapter 82.36 RCW to read as follows:

RULES. The department and the state patrol shall adopt rules necessary to implement sections 1 through 5 of this act.

NEW SECTION. Sec. 7. A new section is added to chapter 82.38 RCW to read as follows:

SEIZURE AND FORFEITURE. (1) The following are subject to seizure and forfeiture:

(a) Special fuel imported into this state by a person not licensed in this state in accordance with this chapter to import fuel;

(b) Special fuel that is blended or manufactured by a person not licensed in this state in accordance with this chapter to blend or manufacture fuel;

(c) All conveyances that are used, or intended for use, to transport, or in any manner to facilitate the transportation, for the purpose of sale or receipt of property described in (a) and (b) of this subsection, except where the owner of the conveyance neither had knowledge of nor consented to the transportation of the special fuel by an unlicensed importer, blender, or manufacturer of fuel.

(2) Before seizing a common carrier conveyance, contract carrier conveyance, or a conveyance secured by a bona fide security interest where the secured party neither had knowledge of or consented to the unlawful act or omission, the state patrol or the department of licensing shall give the common carrier, contract carrier, or secured party, or their representatives within twenty-four hours, a notice in writing served by mail or other means to cease transporting fuel for any person not licensed to import, blend, or manufacture fuel in this state.

(3) Property subject to forfeiture under this chapter may be seized by the state patrol upon process issued by a superior court or district court having jurisdiction over the property. Seizure without process may be made if:

(a) The seizure is incident to an arrest or a search under a search warrant or an administrative inspection; or

(b) The state patrol has probable cause to believe that the property was used or is intended to be used in violation of this chapter and exigent circumstances exist making procurement of a search warrant impracticable.

NEW SECTION. Sec. 8. A new section is added to chapter 82.38 RCW to read as follows:

FORFEITURE PROCEDURE. In all cases of seizure of property made subject to forfeiture under this chapter, the state patrol shall proceed as follows:

(1) Forfeiture is deemed to have commenced by the seizure.

(2) The state patrol shall list and particularly describe in duplicate the conveyance seized. After the appropriate appeal period has expired, a seized conveyance must be sold at a public auction in accordance with chapter 43.19 RCW.

(3) The state patrol shall list and particularly describe in duplicate the special fuel seized. The selling price of the fuel seized will be the average terminal rack price for similar fuel, at the closest terminal rack on the day of sale, unless circumstance warrants that a different selling price is appropriate. The method used to value the fuel must be documented. The fuel will be sold at the earliest point in time, and the total price must include all appropriate state and federal taxes. The state patrol or the department may enter into contracts for the transportation, handling, storage, and sale of fuel subject to forfeiture. The money received must be deposited in the motor vehicle account, after deduction for expenses provided for in this section.

(4) The state patrol shall, within five days after the seizure of a conveyance or fuel, cause notice to be served on the owner of the property seized, if known, on the person in charge of the property, and on any other person having any known right or interest in the property, of the seizure and intended forfeiture. The notice may be served by any method authorized by law or court rule including but not limited to service by mail. If service is by mail it must be by both certified mail with return receipt requested and regular mail. Service by mail is deemed complete upon mailing within the five-day period after the date of seizure.

(5) If no person notifies the state patrol in writing of the person's claim of ownership or right to possession of the items seized within fifteen days of the date of the notice of seizure, the items seized are considered forfeited.

(6) If any person notifies the state patrol, in writing, of the person's claim of ownership or right to possession of the items seized within fifteen days of the date of the notice of seizure, the person or persons must be given a reasonable opportunity to be heard as to the claim or right. The hearing must be before the director of licensing, or the director's designee. A hearing and any appeals must be in accordance with chapter 34.05 RCW. The burden of proof by a preponderance of the evidence is upon the person claiming to be the lawful owner or the person claiming to have the lawful right to possession of the items seized. The state patrol and the department shall promptly return the conveyance seized, and money from the sale of fuel seized, to the claimant upon a determination that the claimant is the present lawful owner and is lawfully entitled to possession of the items seized.

NEW SECTION. Sec. 9. A new section is added to chapter 82.38 RCW to read as follows:

FORFEITED PROPERTY—RETENTION, SALE, OR DESTRUCTION—USE OF SALE PROCEEDS. When property is forfeited under this chapter, the state patrol or the department may use the proceeds of the sale and all moneys forfeited for the payment of all proper expenses of any investigation leading to the seizure and of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising, and court costs. Proper expenses of investigation include costs incurred by a law enforcement agency or a federal, state, or local agency. The balance of the proceeds must be deposited in the motor vehicle fund.

NEW SECTION. Sec. 10. A new section is added to chapter 82.38 RCW to read as follows:

RETURN OF SEIZED PROPERTY—PENALTY, INTEREST. (1) The state patrol and the department may return property seized and proceeds from the sale of fuel under this chapter when it is shown that there was no intention to violate this chapter.

(2) When property is returned under this section, the state patrol and the department may return the goods to the parties from whom they were seized if and when the parties pay all applicable taxes and interest.

NEW SECTION. Sec. 11. A new section is added to chapter 82.38 RCW to read as follows:

SEARCH AND SEIZURE. When the state patrol has good reason to believe that special fuel is being unlawfully imported, kept, sold, offered for sale, blended, or manufactured in violation of this chapter or rules adopted under it, the state patrol may make an affidavit of that fact, describing the place or thing to be searched, before a judge of any court in this state, and the judge shall issue a search warrant directed to the state patrol commanding the officer diligently to search any place or vehicle designated in the affidavit and search warrant, and to seize the fuel and conveyance so possessed and to hold them until disposed of by law, and to arrest the person in possession or control of them.

NEW SECTION. Sec. 12. A new section is added to chapter 82.38 RCW to read as follows:

RULES. The department and the state patrol shall adopt rules necessary to implement sections 7 through 11 of this act.

Sec. 13. RCW 82.36.380 and 2000 2nd sp.s. c 4 s 9 are each amended to read as follows:

(1) It is unlawful for a person or corporation to:

(a) Evade a tax or fee imposed under this chapter;

(b) File a false statement of a material fact on a motor fuel license application or motor fuel refund application;

(c) Act as a motor fuel importer, motor fuel blender, or motor fuel supplier unless the person holds an uncanceled motor fuel license issued by the department authorizing the person to engage in that business;

(d) Knowingly assist another person to evade a tax or fee imposed by this chapter;

(e) Knowingly operate a conveyance for the purpose of hauling, transporting, or delivering motor vehicle fuel in bulk and not possess an invoice, bill of sale, or other statement showing the name, address, and tax license number of the seller or consi nor the destination the name, address and tax license number of the purchaser or consignee, and the number of gallons.

(2) ~~((Evasion of taxes or fees under this chapter))~~ A violation of subsection (1) of this section is a class C felony under chapter 9A.20 RCW. In addition to other penalties and remedies provided by law, the court shall order a person or corporation found guilty of violating subsection (1) of this section to:

(a) Pay the tax or fee evaded plus interest, commencing at the date the tax or fee was first due, at the rate of twelve percent per year, compounded monthly; and

(b) Pay a penalty of one hundred percent of the tax evaded, to the multimodal transportation account of the state.

Sec. 14. RCW 82.38.270 and 2000 2nd sp.s. c 4 s 10 are each amended to read as follows:

(1) It is unlawful for a person or corporation to:

(a) Have dyed diesel in the fuel supply tank of a vehicle that is licensed or required to be licensed for highway use or maintain dyed diesel in bulk storage for highway use, unless the person or corporation maintains an uncanceled dyed diesel user license or is otherwise exempted by this chapter;

(b) Evade a tax or fee imposed under this chapter;

(c) File a false statement of a material fact on a special fuel license application or special fuel refund application;

(d) Act as a special fuel importer, special fuel blender, or special fuel supplier unless the person holds an uncanceled special fuel license issued by the department authorizing the person to engage in that business;

(e) Knowingly assist another person to evade a tax or fee imposed by this chapter;

(f) Knowingly operate a conveyance for the purpose of hauling, transporting, or delivering special fuel in bulk and not possess an invoice, bill of sale, or other statement showing the name, address, and tax license number of the seller or consi nor the destination the name address and tax license number of the purchaser or consignee, and the number of gallons.

(2) ~~((Evasion of taxes or fees under this chapter is))~~ (a) A single violation of subsection (1)(a) of this section is a gross misdemeanor under chapter 9A.20 RCW.

(b) Multiple violations of subsection (1)(a) of this section and violations of subsections (1)(b) through (f) of this section are a class C felony under chapter 9A.20 RCW.

(3) In addition to other penalties and remedies provided by law, the court shall order a person or corporation found guilty of violating subsection (1)(b) through (f) of this section to:

(a) Pay the tax or fee evaded plus interest, commencing at the date the tax or fee was first due, at the rate of twelve percent per year, compounded monthly; and

(b) Pay a penalty of one hundred percent of the tax evaded, to the multimodal transportation account of the state.

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

(1) RCW 82.36.306 (Remedies for violation of RCW 82.36.305—Rules—Coloring of fuel exclusively for marine use, samples may be taken) and 1973 c 96 s 4 & 1961 c 15 s 82.36.306; and

(2) RCW 82.38.182 (Exemption—Special authorization to farmers, logging companies, construction companies for purchases—Application—Card lock facility use—Refund—Forms—Termination of election—Renewal—Records) and 1998 c 176 s 72.

NEW SECTION. Sec. 16. Captions used in this act are not part of the law.

NEW SECTION. Sec. 17. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed by the Senate March 16, 2003.

Passed by the House April 26, 2003.

Approved by the Governor May 16, 2003.

Filed in Office of Secretary of State May 16, 2003.

CHAPTER 359

[Substitute Senate Bill 5600]

LICENSE PLATES—DISPOSITION

AN ACT Relating to disposition of returned license plates; and adding a new section to chapter 46.16 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 46.16 RCW to read as follows:

The department may, upon request, provide license plates that have been used and subsequently returned to the department to individuals for nonvehicular use. The department may charge a fee of up to five dollars per plate to cover costs of recovery, postage, and handling. The department may waive the fee for plates used in educational projects, and may, by rule, provide standards for the fee waiver and restrictions on the number of plates provided to any one person.

Passed by the Senate March 18, 2003.
Passed by the House April 14, 2003.
Approved by the Governor May 16, 2003.
Filed in Office of Secretary of State May 16, 2003.

CHAPTER 360

[Engrossed Substitute House Bill 1163]
TRANSPORTATION BUDGET

AN ACT Relating to transportation funding and appropriations; amending 2002 c 359 ss 205, 207, 208, 210, 211, 212, 213, 215, 223, 225, 226, 216, 401, 402, 403, and 404 (uncodified); amending 2001 2nd sp.s. c 14 s 303 (uncodified); adding a new section to chapter 43.79 RCW; adding a new section to 2001 2nd sp.s. c 14 (uncodified); creating new sections; making appropriations and authorizing expenditures for capital improvements; providing an effective date; and providing a contingent effective date.

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

2003-05 BIENNIUM

NEW SECTION. **Sec. 1.** (1) The transportation budget of the state is hereby adopted and, subject to the provisions set forth, the several amounts specified, or as much thereof as may be necessary to accomplish the purposes designated, are hereby appropriated from the several accounts and funds named to the designated state agencies and offices for employee compensation and other expenses, for capital projects, and for other specified purposes, including the payment of any final judgments arising out of such activities, for the period ending June 30, 2005.

(2) Unless the context clearly requires otherwise, the definitions in this subsection apply throughout this act.

(a) "Fiscal year 2004" or "FY 2004" means the fiscal year ending June 30, 2004.

(b) "Fiscal year 2005" or "FY 2005" means the fiscal year ending June 30, 2005.

(c) "FTE" means full-time equivalent.

(d) "Lapse" or "revert" means the amount shall return to an unappropriated status.

(e) "Provided solely" means the specified amount may be spent only for the specified purpose.

(f) "Reappropriation" means appropriation and, unless the context clearly provides otherwise, is subject to the relevant conditions and limitations applicable to appropriations.

(g) "LEAP" means the legislative evaluation and accountability program committee.

GENERAL GOVERNMENT AGENCIES—OPERATING

NEW SECTION. **Sec. 101. FOR THE UTILITIES AND TRANSPORTATION COMMISSION**

Grade Crossing Protective Account—State Appropriation \$293,000

NEW SECTION. Sec. 102. FOR THE MARINE EMPLOYEES COMMISSION

Puget Sound Ferry Operations Account—State
Appropriation \$352,000

NEW SECTION. Sec. 103. FOR THE STATE PARKS AND RECREATION COMMISSION

Motor Vehicle Account—State Appropriation \$822,000

The appropriation in this section is subject to the following conditions and limitations: The entire appropriation in this section is provided solely for road maintenance purposes.

NEW SECTION. Sec. 104. FOR THE DEPARTMENT OF AGRICULTURE

Motor Vehicle Account—State Appropriation \$315,000

The appropriation in this section is subject to the following conditions and limitations: The entire appropriation is provided solely for costs associated with the motor fuel quality program.

GENERAL GOVERNMENT AGENCIES—CAPITAL

NEW SECTION. Sec. 105. FOR WASHINGTON STATE PARKS AND RECREATION—CAPITAL PROJECTS

Motor Vehicle Account—State Appropriation \$150,000

The appropriation in this section is subject to the following conditions and limitations: The motor vehicle account—state appropriation is a one-time reappropriation and is provided solely for the Beacon Rock state park entrance road project. Any of the appropriations not expended by June 30, 2005, shall revert to the motor vehicle account—state.

TRANSPORTATION AGENCIES—OPERATING

NEW SECTION. Sec. 201. FOR THE WASHINGTON TRAFFIC SAFETY COMMISSION

Highway Safety Account—State Appropriation \$2,017,000
Highway Safety Account—Federal Appropriation \$15,744,000
School Zone Safety Account—State Appropriation \$3,059,000
TOTAL APPROPRIATION \$20,820,000

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

(1) The commission may oversee up to four pilot projects implementing the use of traffic safety cameras to detect failure to stop at railroad crossings, stoplights, and school zones.

(a) In order to ensure adequate time in the 2003-05 biennium to evaluate the effectiveness of the pilot program, any projects authorized by the commission must be authorized by December 31, 2003.

(b) If a county or city has established an authorized automated traffic safety camera program under this section, the compensation paid to the manufacturer or vendor of the equipment used must be based only upon the value of the

equipment and services provided or rendered in support of the system, and may not be based upon a portion of the fine or civil penalty imposed or the revenue generated by the equipment.

(c) The traffic safety commission shall use the following guidelines to administer the program:

(i) Traffic safety cameras may take pictures of the vehicle and vehicle license plate only, and only while an infraction is occurring;

(ii) The law enforcement agency of the city or county government shall plainly mark the locations where the automated traffic enforcement system is used by placing signs on street locations that clearly indicate to a driver that he or she is entering a zone where traffic laws are enforced by an automated traffic enforcement system;

(iii) Cities and counties using traffic safety cameras must provide periodic notice by mail to its citizens indicating the zones in which the traffic safety cameras will be used;

(iv) Notices of infractions must be mailed to the registered owner of a vehicle within fourteen days of the infraction occurring;

(v) The owner of the vehicle is not responsible for the violation if the owner of the vehicle, within fourteen days of receiving notification of the violation, mails to the issuing law enforcement agency, a declaration under penalty of perjury, stating that the vehicle involved was, at the time, stolen or in the care, custody, or control of some person other than the registered owner, or any other extenuating circumstances;

(vi) Infractions detected through the use of traffic safety cameras are not part of the registered owner's driving record under RCW 46.52.101 and 46.52.120;

(vii) If a notice of infraction is sent to the registered owner and the registered owner is a rental car business, the infraction will be dismissed against the business if it mails to the issuing agency, within fourteen days of receiving the notice, a declaration under penalty of perjury of the name and known mailing address of the individual driving or renting the vehicle when the infraction occurred. If the business is unable to determine who was driving or renting the vehicle at the time the infraction occurred, the business must sign a declaration under penalty of perjury to this effect. The declaration must be mailed to the issuing agency within fourteen days of receiving the notice of traffic infraction. Timely mailing of this declaration to the issuing agency relieves a rental car business of any liability under this section for the notice of infraction. A declaration form suitable for this purpose must be included with each automated traffic infraction notice issued, along with instructions for its completion and use;

(viii) For purposes of the 2003-05 biennium pilot projects, infractions generated by the use of traffic safety cameras are exempt from the provisions of RCW 3.46.120, 3.50.100, and 35.20.220, and must be processed in the same manner as parking violations; and

(ix) By June 30, 2005, the traffic safety commission shall provide a report to the legislature regarding the use, public acceptance, outcomes, and other relevant issues regarding traffic safety cameras demonstrated by the pilot projects.

(2) \$210,000 of the highway safety account—state appropriation is provided solely for continuing the five existing DUI/traffic safety task forces that receive federal project funding that expires during the 2003-05 biennium. However, the appropriation in this subsection may only be expended for a task force when the federal funding for that task force has expired.

(3)(a) \$1,555,000 of the school zone safety account—state appropriation is provided solely as matching funds for the following school safety enhancement projects, as proposed by local agencies, schools, and tribal governments in response to the department of transportation's highways and local programs request for information for potential projects to be financed under Referendum No. 51:

Agency	Project Title
Cheney	School Crosswalk Improvement Project
Skokomish Indian Tribe	Skokomish School Safety Sidewalk Program
Brier	37th Pl SW & 233rd Pl SW Sidewalk
Sunnyside	Lincoln Ave Sidewalks
Lynnwood	Olympic View Dr - 76th Ave SW to 169th St SW
Steilacoom	Cherrydale Elementary School Safety Enhancement
Yakima	W Valley School Zone Flashers
Camas SD	SR 500 at 15th St Interchange
Seattle	Meadowbrook Playfield - NE 105th St
Vancouver	Franklin ES Sidewalk Improvements

(b) If one or more of the projects under this subsection cannot be completed or no longer seeks state matching funds, the following projects may be substituted in order of priority:

Agency	Project Title
Davenport	Davenport Sixth St School Sidewalk
Edmonds	96th Ave W Pedestrian Improvements
Mountlake Terrace	223rd St SW - 44th Ave W to Cedar Way Elementary
Yakima	Englewood/Powerhouse Intersection Safety Project

(c) The highways and local programs division within the department of transportation shall provide assistance to the commission in administering this program.

(d) The legislature intends to tie funding to specific projects only for the 2003-05 biennium.

NEW SECTION. Sec. 202. FOR THE COUNTY ROAD ADMINISTRATION BOARD
 Rural Arterial Trust Account—State Appropriation. \$769,000

Motor Vehicle Account—State Appropriation	\$1,927,000
County Arterial Preservation Account—State Appropriation	\$719,000
TOTAL APPROPRIATION	\$3,415,000

NEW SECTION. Sec. 203. FOR THE TRANSPORTATION IMPROVEMENT BOARD

Urban Arterial Trust Account—State Appropriation	\$1,611,000
Transportation Improvement Account—State Appropriation	\$1,620,000
TOTAL APPROPRIATION	\$3,231,000

NEW SECTION. Sec. 204. FOR THE BOARD OF PILOTAGE COMMISSIONERS

Pilotage Account—State Appropriation	\$272,000
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NEW SECTION. Sec. 205. FOR THE LEGISLATIVE TRANSPORTATION COMMITTEE

Motor Vehicle Account—State Appropriation	\$2,374,000
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The appropriation in this section is subject to the following conditions and limitations:

(1) No funding is provided for the staffing, administration and operations of the house of representatives transportation committee. Existing staff of the transportation committee shall be transferred to the house of representatives in the office of program research. All tangible and intangible property that has been acquired by, or allocated for use by the house of representatives transportation committee and its staff, including but not limited to office space and equipment, information systems technology, and employer-related assets, rights, privileges, and liabilities shall be transferred to the house of representatives. Any property acquired by, or allocated for use by the senate transportation committee and its staff shall be transferred to the senate.

(2) \$1,600,000 of the motor vehicle state appropriation in this section is provided for the purposes of (a) and (b) of this subsection:

(a)(i) If Substitute Senate Bill No. 5748 becomes law by June 30, 2003, the amount provided in this subsection shall be for performance and functional audits of transportation agencies and departments as provided in Substitute Senate Bill No. 5748; and

(ii) If Substitute Senate Bill No. 5748 does not become law by June 30, 2003, the amount provided in this subsection shall be for performance and functional audits of transportation agencies and departments paid for and ordered by the executive committee of the legislative transportation committee, pursuant to a recommendation of the transportation performance audit board hereby created. The transportation performance audit board shall consist of the majority and minority leaders of the transportation committees of the legislature, five citizen members with transportation-related expertise who shall be nominated by professional associations chosen by the board's legislative members and appointed by the governor, the legislative auditor as an ex officio member, and one at-large member appointed by the governor. The citizen members may not currently, or within one year of their appointment, be employed by the Washington state department of transportation, and shall include:

(A) One member with expertise in construction project planning, including permitting and assuring regulatory compliance;

(B) One member with expertise in construction means and methods and construction management, crafting and implementing environmental mitigation plans, and administration;

(C) One member with expertise in construction engineering services, including construction management, materials testing, materials documentation, contractor payments, inspection, surveying, and project oversight;

(D) One member with expertise in project management, including design estimating, contract packaging, and procurement; and

(E) One member with expertise in transportation planning and congestion management.

(b) Within the amount provided in this subsection, the legislative transportation committee shall consider contracting with the joint legislative audit and review committee to conduct a targeted performance audit of the Washington state patrol. For this performance audit, the joint legislative audit and review committee shall put its highest priority on the following topics: (i) An assessment of the types and categories of services, including a contrast of public highway policing and general policing services provided by the patrol, and the organizational structures used to deliver these services; (ii) an evaluation of the patrol's fiscal policies and procedures, including a differentiation between transportation and general fund expenditures; and (iii) an evaluation of the linkages among expenditures, organizational structures, service delivery, accountability, and outcomes. If a contract is entered into under this subsection (b), the joint legislative audit and review committee shall provide a progress report to the appropriate committees of the legislature by December 31, 2003, and a final report, including findings and recommendations, by September 30, 2004.

(3) The legislative transportation committee shall develop a mission and organizational plan during the 2003 legislative interim that:

(a) Reconciles any newly-mandated responsibilities (such as performance auditing and benchmarking) with current statutory responsibilities;

(b) Develops a process for adopting interim work plans, including identifying subcommittees of the legislative transportation committee, special studies or activities to be undertaken (which may include a study of administrative costs funded with commute trip reduction funds and how administrative cost savings can be achieved), deliverables and/or expected outcomes, and resources required to accomplish the work plan;

(c) Develops a long-range staffing plan to fit any new statutory requirements and a redefined mission and organizational plan; and

(d) Ensures that all basic legislative transportation committee functions and the adopted interim work plan are appropriately funded.

NEW SECTION. Sec. 206. FOR THE TRANSPORTATION COMMISSION

Motor Vehicle Account—State Appropriation \$807,000

NEW SECTION. Sec. 207. FOR THE FREIGHT MOBILITY STRATEGIC INVESTMENT BOARD

Motor Vehicle Account—State Appropriation \$616,000

NEW SECTION. Sec. 208. FOR THE WASHINGTON STATE PATROL—FIELD OPERATIONS BUREAU

State Patrol Highway Account—State Appropriation	\$171,269,000
State Patrol Highway Account—Federal Appropriation	\$6,167,000
State Patrol Highway Account—Private/Local Appropriation.	\$175,000
TOTAL APPROPRIATION	\$177,611,000

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

(1) Washington state patrol officers engaged in off-duty uniformed employment providing traffic control services to the department of transportation or other state agencies are authorized to use state patrol vehicles for the purposes of that employment, subject to guidelines adopted by the chief of the Washington state patrol. The Washington state patrol shall be reimbursed for the use of the vehicle at the prevailing state employee rate for mileage and hours of usage, subject to guidelines developed by the chief of the Washington state patrol. The patrol shall report to the house of representatives and senate transportation committees by December 31, 2004, on the use of agency vehicles by officers engaging in the off-duty employment specified in this subsection. The report shall include an analysis that compares cost reimbursement and cost-impacts, including increased vehicle mileage, maintenance costs, and indirect impacts, associated with the private use of patrol vehicles.

(2) \$2,075,000 of the state patrol highway account—state appropriation in this section is provided solely for the addition of thirteen troopers to those permanently assigned to vessel and terminal security. The Washington state patrol shall continue to provide the enhanced services levels established after September 11, 2001.

(3) In addition to the user fees, the patrol shall transfer into the state patrol nonappropriated airplane revolving account created under section 1501 of this act, no more than the amount of appropriated state patrol highway account and general fund funding necessary to cover the costs for the patrol's use of the aircraft. The state patrol highway account and general fund—state funds shall be transferred proportionately in accordance with a cost allocation that differentiates between highway traffic enforcement services and general policing purposes.

(4) The patrol shall not account for or record locally provided DUI cost reimbursement payments as expenditure credits to the state patrol highway account. The patrol shall report the amount of expected locally provided DUI cost reimbursements to the transportation committees of the senate and house of representatives by December 31 of each year.

NEW SECTION. Sec. 209. FOR THE WASHINGTON STATE PATROL—SUPPORT SERVICES BUREAU

State Patrol Highway Account—State Appropriation	\$69,993,000
State Patrol Highway Account—Private/Local Appropriation.	\$1,290,000
TOTAL APPROPRIATION	\$71,283,000

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

(1) Under the direction of the legislative auditor, the patrol shall update the pursuit vehicle life-cycle cost model developed in the 1998 Washington state patrol performance audit (JLARC Report 99-4). The patrol shall utilize the updated model as a basis for determining maintenance and other cost impacts

resulting from the increase to pursuit vehicle mileage above 110 thousand miles in the 2003-05 biennium. The patrol shall submit a report, that includes identified cost impacts, to the transportation committees of the senate and house of representatives by December 31, 2003.

(2) The Washington state patrol shall assign two full-time detectives to work solely to investigate incidents of identity fraud, drivers' license fraud, and identity theft. The detectives shall work cooperatively with the department of licensing's driver's special investigation unit.

NEW SECTION. Sec. 210. FOR THE DEPARTMENT OF LICENSING—MANAGEMENT AND SUPPORT SERVICES

Marine Fuel Tax Refund Account—State Appropriation	\$7,000
Motorcycle Safety Education Account—State Appropriation	\$85,000
Wildlife Account—State Appropriation	\$77,000
Highway Safety Account—State Appropriation	\$8,286,000
Motor Vehicle Account—State Appropriation	\$4,623,000
DOL Services Account—State Appropriation	\$107,000
TOTAL APPROPRIATION	\$13,185,000

NEW SECTION. Sec. 211. FOR THE DEPARTMENT OF LICENSING—INFORMATION SERVICES

Marine Fuel Tax Refund Account—State Appropriation	\$2,000
Motorcycle Safety Education Account—State Appropriation	\$133,000
Wildlife Account—State Appropriation	\$58,000
Highway Safety Account—State Appropriation	\$10,489,000
Highway Safety Account—Federal Appropriation	\$6,000
Motor Vehicle Account—State Appropriation	\$6,569,000
DOL Services Account—State Appropriation	\$670,000
TOTAL APPROPRIATION	\$17,927,000

The appropriations in this section are subject to the following conditions and limitations: The department shall submit a report to the transportation committees of the legislature detailing the progress made in transitioning off of the Unisys system by December 1, 2003, and each December 1 thereafter.

***NEW SECTION. Sec. 212. FOR THE DEPARTMENT OF LICENSING—VEHICLE SERVICES**

Marine Fuel Tax Refund Account—State Appropriation	\$60,000
Wildlife Account—State Appropriation	\$585,000
Motor Vehicle Account—Local Appropriation	\$1,372,000
Motor Vehicle Account—State Appropriation	\$61,509,000
Motor Vehicle Account—Federal Appropriation	\$600,000
DOL Services Account—State Appropriation	\$3,211,000
TOTAL APPROPRIATION	\$67,337,000

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

(1) \$144,000 of the motor vehicle account—state appropriation is provided solely for the implementation of Substitute Senate Bill No. 5435 or Engrossed Substitute House Bill No. 1592.

(2) If Engrossed Senate Bill No. 6063 is not enacted by June 30, 2003, \$1,100,000 of the motor vehicle account—state appropriation shall lapse.

(3) \$81,000 of the DOL services account—state appropriation is provided solely for the implementation of Substitute House Bill No. 1036.

(4) *\$2,901,000 of the motor vehicle account—state appropriation is provided solely for the implementation of House Bill No. 2065. Within the amount provided, the department shall fund the implementation of a digital license plate system including the purchase of digital license plate printing equipment for correctional industries; the remodeling of space to provide climate control, ventilation, and power requirements, for the equipment that will be housed at correctional industries; and the purchase of digital license plate inventory. By December 1, 2003, the department and correctional industries shall submit a report to the transportation committees of the legislature detailing the digital license plate printing system implementation plan. By January 1, 2005, the department and correctional industries shall submit a report to the transportation committees of the legislature concerning the cost of the consumables used in the digital license plate printing process. If House Bill No. 2065 is not enacted by June 30, 2003, \$2,901,000 of the motor vehicle account—state appropriation shall lapse.*

**Sec. 212 was partially vetoed. See message at end of chapter.*

NEW SECTION. Sec. 213. FOR THE DEPARTMENT OF LICENSING—DRIVER SERVICES

Motorcycle Safety Education Account—State Appropriation	\$2,576,000
Highway Safety Account—State Appropriation	\$84,809,000
Highway Safety Account—Federal Appropriation	\$318,000
TOTAL APPROPRIATION	\$87,703,000

The appropriations in this section are subject to the following conditions and limitations: \$178,000 of the highway safety account—state appropriation is provided solely for two temporary collision processing FTEs to eliminate the backlog of collision reports. The department shall report, informally, to the house of representatives and senate transportation committees quarterly, beginning October 1, 2003, on the progress made in eliminating the backlog.

NEW SECTION. Sec. 214. FOR THE DEPARTMENT OF TRANSPORTATION—INFORMATION TECHNOLOGY—PROGRAM C

Motor Vehicle Account—State Appropriation	\$58,661,000
Motor Vehicle Account—Federal Appropriation	\$5,163,000
Puget Sound Ferry Operations Account—State Appropriation	\$6,583,000
Multimodal Transportation Account—State Appropriation	\$363,000
TOTAL APPROPRIATION	\$70,770,000

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

(1) \$715,000 of the motor vehicle account—state appropriation is provided solely to retain an external consultant to provide an assessment of the department's review of current major information technology systems and planning for system and application modernization. The legislative transportation committee shall approve the statement of work before the

consultant is hired. The consultant shall also work with the department to prepare an application modernization strategy and preliminary project plan.

The department and the consultant shall work with the office of financial management and the department of information services to ensure that (a) the department's current and future system development is consistent with the overall direction of other key state systems; and (b) when possible, common statewide information systems are used or developed to encourage coordination and integration of information used by the department and other state agencies and to avoid duplication. The department shall provide a report on its proposed application modernization plan to the transportation committees of the legislature by June 30, 2004.

(2)(a) \$2,963,000 of the motor vehicle account—state appropriation and \$2,963,000 of the motor vehicle account—federal appropriation are provided solely for implementation of a new revenue collection system, including the integration of the regional fare coordination system (smart card), at the Washington state ferries. By December 1st of each year, an annual update must be provided to the legislative transportation committee concerning the status of implementing and completing this project.

(b) \$400,000 of the Puget Sound ferry operation account—state appropriation is provided solely for implementation of the smart card program. \$200,000 of this amount must be held in allotment reserve until a smart card report is delivered to the legislative transportation committee indicating that an agreement on which technology will be used throughout the state of Washington for the smart card program has been reached among smart card participants.

(3) The department shall contract with the department of information services to conduct a survey that identifies possible opportunities and benefits associated with siting and use of technology and wireless facilities located on state right of way authorized by RCW 47.60.140. The department shall submit a report regarding the survey to the appropriate legislative committees by December 1, 2004.

NEW SECTION. Sec. 215. FOR THE DEPARTMENT OF TRANSPORTATION—FACILITY MAINTENANCE, OPERATIONS AND CONSTRUCTION—PROGRAM D—OPERATING

Motor Vehicle Account—State Appropriation \$31,048,000

NEW SECTION. Sec. 216. FOR THE DEPARTMENT OF TRANSPORTATION—AVIATION—PROGRAM F

Aeronautics Account—State Appropriation \$5,107,000

Aeronautics Account—Federal Appropriation \$650,000

Aircraft Search and Rescue Safety and Education

Account—State Appropriation \$282,000

TOTAL APPROPRIATION \$6,039,000

The appropriations in this section are subject to the following conditions and limitations: \$1,381,000 of the aeronautics account—state appropriation is provided solely for additional preservation grants to airports. \$122,000 of the aircraft search and rescue safety and education account—state appropriation is provided for additional search and rescue and safety and education activities. If Senate Bill No. 6056 is not enacted by June 30, 2003, the amounts provided shall lapse.

NEW SECTION. Sec. 217. FOR THE DEPARTMENT OF TRANSPORTATION—PROGRAM DELIVERY MANAGEMENT AND SUPPORT—PROGRAM H

Motor Vehicle Account—State Appropriation	\$49,010,000
Motor Vehicle Account—Federal Appropriation	\$400,000
TOTAL APPROPRIATION	\$49,410,000

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

(1) \$14,310,000 of the motor vehicle account—state appropriation is provided solely for the staffing, activities, and overhead of the department's environmental affairs office. This funding is provided in lieu of funding provided in sections 305 and 306 of this act.

(2) \$3,100,000 of the motor vehicle account—state appropriation is provided solely for the staffing and activities of the transportation permit efficiency and accountability committee.

(3) \$300,000 of the motor vehicle account—state appropriation is provided to the department in accordance with RCW 46.68.110(2) and 46.68.120(3) and shall be used by the department solely for the purposes of providing contract services to the association of Washington cities and Washington state association of counties to implement section 2(3)(c), (5), and (6), chapter 8 (ESB 5279), Laws of 2003 for activities of the transportation permit efficiency and accountability committee.

NEW SECTION. Sec. 218. FOR THE DEPARTMENT OF TRANSPORTATION—ECONOMIC PARTNERSHIPS—PROGRAM K

Motor Vehicle Account—State Appropriation	\$1,011,000
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NEW SECTION. Sec. 219. FOR THE DEPARTMENT OF TRANSPORTATION—HIGHWAY MAINTENANCE—PROGRAM M

Motor Vehicle Account—State Appropriation	\$283,350,000
Motor Vehicle Account—Federal Appropriation	\$1,426,000
Motor Vehicle Account—Private/Local Appropriation	\$4,253,000
TOTAL APPROPRIATION	\$289,029,000

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

(1) If portions of the appropriations in this section are required to fund maintenance work resulting from major disasters not covered by federal emergency funds such as fire, flooding, and major slides, supplemental appropriations must be requested to restore state funding for ongoing maintenance activities.

(2) The department shall request an unanticipated receipt for any federal moneys received for emergency snow and ice removal and shall place an equal amount of the motor vehicle account—state into unallotted status. This exchange shall not affect the amount of funding available for snow and ice removal.

(3) The department shall request an unanticipated receipt for any private or local funds received for reimbursements of third party damages that are in excess of the motor vehicle account—private/local appropriation.

(4) Funding is provided for maintenance on the state system to allow for a continuation of the level of service targets included in the 2001-03 biennium. In delivering the program, the department should concentrate on the following areas:

(a) Meeting or exceeding the target for structural bridge repair on a statewide basis;

(b) Eliminating the number of activities delivered in the "f" level of service at the region level;

(c) Reducing the number of activities delivered in the "d" level of service by increasing the resources directed to those activities on a statewide and region basis; and

(d) Evaluating, analyzing, and potentially redistributing resources within and among regions to provide greater consistency in delivering the program statewide and in achieving overall level of service targets.

NEW SECTION. Sec. 220. FOR THE DEPARTMENT OF TRANSPORTATION—TRAFFIC OPERATIONS—PROGRAM Q—OPERATING

Motor Vehicle Account—State Appropriation	\$38,869,000
Motor Vehicle Account—Private/Local Appropriation	\$125,000
TOTAL APPROPRIATION	\$38,994,000

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

(1) A maximum of \$8,800,000 of the motor vehicle account—state appropriation may be expended for the incident response program, including the service patrols. The department and the Washington state patrol shall continue to consult and coordinate with private sector partners, such as towing companies, media, auto, insurance and trucking associations, and the legislative transportation committees to ensure that limited state resources are used most effectively. No funds shall be used to purchase tow trucks.

(2) \$4,400,000 of the motor vehicle account—state appropriation is provided solely for low-cost enhancements. The department shall give priority to low-cost enhancement projects that improve safety or provide congestion relief. The department shall prioritize low-cost enhancement projects on a statewide rather than regional basis.

(3) At a frequency determined by the department, the interstate-5 variable message signs shall display a message advising slower traffic to keep right.

NEW SECTION. Sec. 221. FOR THE DEPARTMENT OF TRANSPORTATION—TRANSPORTATION MANAGEMENT AND SUPPORT—PROGRAM S

Motor Vehicle Account—State Appropriation	\$24,852,000
Motor Vehicle Account—Federal Appropriation	\$636,000
Puget Sound Ferry Operations Account—State Appropriation	\$1,093,000
Multimodal Transportation Account—State Appropriation	\$973,000
TOTAL APPROPRIATION	\$27,554,000

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

(1) \$627,000 of the motor vehicle account—state appropriation is provided solely for the implementation of Substitute Senate Bill No. 5248. If Substitute Senate Bill No. 5248 is not enacted by June 30, 2003, the amount provided in this subsection shall lapse. The agency may transfer between programs funds provided in this subsection.

(2) The department shall transfer at no cost to the Washington state patrol the title to the Walla Walla colocation facility.

NEW SECTION. Sec. 222. FOR THE DEPARTMENT OF TRANSPORTATION—TRANSPORTATION PLANNING, DATA, AND RESEARCH—PROGRAM T

Motor Vehicle Account—State Appropriation	\$30,064,000
Motor Vehicle Account—Federal Appropriation	\$14,814,000
Multimodal Transportation Account—State Appropriation	\$1,021,000
Multimodal Transportation Account—Federal Appropriation	\$2,000,000
TOTAL APPROPRIATION	\$47,899,000

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

(1) \$3,800,000 of the motor vehicle account—state appropriation is provided solely for a study of regional congestion relief solutions for Puget Sound, Spokane, and Vancouver. The study must include proposals to alleviate congestion consistent with population and land use expectations under the growth management act, and must include measurement of all modes of transportation.

(2) \$2,000,000 of the motor vehicle account—state appropriation is provided solely for additional assistance to support regional transportation planning organizations and long-range transportation planning efforts.

(3) \$3,000,000 of the motor vehicle account—state appropriation is provided solely for the costs of the regional transportation investment district (RTID) election and department of transportation project oversight. These funds are provided as a loan to the RTID and shall be repaid to the state motor vehicle account within one year following the certification of the election results related to the RTID.

(4) \$650,000 of the motor vehicle account—state appropriation is provided to the department in accordance with RCW 46.68.110(2) and 46.68.120(3) and shall be used by the department to support the processing and analysis of the backlog of city and county collision reports.

(5) The department shall contribute to the report required in section 208(1) of this act in the form of an analysis of the cost impacts incurred by the department as the result of the policy implemented in section 208(1) of this act. The analysis shall contrast overtime costs charged by the patrol prior to July 1, 2003, with contract costs for similar services after July 1, 2003.

(6) \$60,000 of the distribution under RCW 46.68.110(2) and 46.68.120(3) is provided solely to the department for the Washington strategic freight transportation analysis.

NEW SECTION. Sec. 223. FOR THE DEPARTMENT OF TRANSPORTATION—CHARGES FROM OTHER AGENCIES—PROGRAM U

Motor Vehicle Account—State Appropriation	\$61,082,000
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The appropriation in this section is subject to the following conditions and limitations:

(1) \$50,799,000 of the motor vehicle fund—state appropriation is provided solely for the liabilities attributable to the department of transportation. The office of financial management must provide a detailed accounting of the revenues and expenditures of the self-insurance fund to the transportation committees of the legislature on December 31st and June 30th of each year.

(2) Payments in this section represent charges from other state agencies to the department of transportation.

(a) FOR PAYMENT OF OFFICE OF FINANCIAL MANAGEMENT DIVISION OF RISK MANAGEMENT FEES \$989,000

(b) FOR PAYMENT OF COSTS OF THE OFFICE OF THE STATE AUDITOR \$823,000

(c) FOR PAYMENT OF COSTS OF DEPARTMENT OF GENERAL ADMINISTRATION FACILITIES AND SERVICES AND CONSOLIDATED MAIL SERVICES \$3,850,000

(d) FOR PAYMENT OF COSTS OF THE DEPARTMENT OF PERSONNEL \$2,252,000

(e) FOR PAYMENT OF SELF-INSURANCE LIABILITY PREMIUMS AND ADMINISTRATION \$50,799,000

(f) FOR PAYMENT OF THE DEPARTMENT OF GENERAL ADMINISTRATION CAPITAL PROJECTS SURCHARGE \$1,846,000

(g) FOR ARCHIVES AND RECORDS MANAGEMENT \$523,000

NEW SECTION. Sec. 224. FOR THE DEPARTMENT OF TRANSPORTATION—PUBLIC TRANSPORTATION—PROGRAM V

Multimodal Transportation Account—State Appropriation \$46,457,000

Multimodal Transportation Account—Federal Appropriation \$2,574,000

Multimodal Transportation Account—Private/Local Appropriation \$155,000

TOTAL APPROPRIATION \$49,186,000

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

(1) \$4,000,000 of the multimodal transportation account—state appropriation is provided solely for a grant program for nonprofit providers of transportation for persons with special transportation needs. \$14,000,000 of the multimodal transportation account—state appropriation is provided solely for a grant program for transit agencies to transport persons with special transportation needs. Moneys shall be to provide additional service only and may not be used to supplant current funding. Grants shall only be used by nonprofit providers and transit agencies for capital and operating costs directly associated with adding additional service. Grants for nonprofit providers shall be based on need, including the availability of other providers of service in the area, efforts to coordinate trips among providers and riders, and the cost effectiveness of trips provided. Grants for transit agencies shall be prorated based on the amount expended for demand response service and route deviated service in calendar year 2001 as reported in the "Summary of Public Transportation - 2001" published by the department of transportation. No transit agency may receive more than thirty percent of these distributions.

(2) \$1,500,000 of the multimodal transportation account—state appropriation is provided solely for grants to implement section 9 of Engrossed Substitute House Bill No. 2228.

(3) Funds are provided for the rural mobility grant program as follows:

(a) \$6,000,000 of the multimodal transportation account—state appropriation is provided solely for grants for those transit systems serving small cities and rural areas as identified in the Summary of Public Transportation - 2001 published by the department of transportation. Noncompetitive grants must be distributed to the transit systems serving small cities and rural areas in a manner similar to past disparity equalization programs.

(b) \$4,000,000 of the multimodal transportation account—state appropriation is provided solely to providers of rural mobility service in areas not served or underserved by transit agencies through a competitive grant process.

(4) \$4,000,000 of the multimodal transportation account—state appropriation is provided solely for a vanpool grant program for public transit agencies. The grant program will cover capital costs only; no operating costs are eligible for funding under this grant program. Only grants that add vanpools are eligible, no supplanting of transit funds currently funding vanpools is allowed. Additional criteria for selecting grants will include leveraging funds other than state funds.

(5) \$3,000,000 of the multimodal transportation account—state appropriation is provided to the city of Seattle for the Seattle streetcar project on South Lake Union.

NEW SECTION. Sec. 225. FOR THE DEPARTMENT OF TRANSPORTATION—MARINE—PROGRAM X

Puget Sound Ferry Operations Account—State

Appropriation.....	\$309,580,000
Multimodal Transportation Account—State Appropriation.....	\$5,120,000
TOTAL APPROPRIATION.....	\$314,700,000

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

(1) The appropriation is based on the budgeted expenditure of \$34,701,000 for vessel operating fuel in the 2003-2005 biennium. If the actual cost of fuel is less than this budgeted amount, the excess amount may not be expended. If the actual cost exceeds this amount, the department shall request a supplemental appropriation.

(2) The appropriation provides for the compensation of ferry employees. The expenditures for compensation paid to ferry employees during the 2003-2005 biennium may not exceed \$207,757,000 plus a dollar amount, as prescribed by the office of financial management, that is equal to any insurance benefit increase granted general government employees in excess of \$495.30 a month annualized per eligible marine employee multiplied by the number of eligible marine employees for fiscal year 2004 and \$567.67 a month annualized per eligible marine employee multiplied by the number of eligible marine employees for fiscal year 2005, a dollar amount as prescribed by the office of financial management for costs associated with pension amortization charges, and a dollar amount prescribed by the office of financial management for salary

increases during the 2003-2005 biennium. For the purposes of this section, the expenditures for compensation paid to ferry employees shall be limited to salaries and wages and employee benefits as defined in the office of financial management's policies, regulations, and procedures named under objects of expenditure "A" and "B" (7.2.6.2).

The prescribed salary increase or decrease dollar amount that shall be allocated from the governor's compensation appropriations is in addition to the appropriation contained in this section and may be used to increase or decrease compensation costs, effective July 1, 2003, and thereafter, as established in the 2003-2005 general fund operating budget.

(3) \$4,234,000 of the multimodal transportation account—state appropriation and \$800,000 of the Puget Sound ferry operations account—state appropriation are provided solely for operating costs associated with the Vashon to Seattle passenger-only ferry. The Washington state ferries will develop a plan to increase passenger-only farebox recovery to at least forty percent by July 1, 2003, with an additional goal of eighty percent, through increased fares, lower operation costs, and other cost-saving measures as appropriate. In order to implement the plan, ferry system management is authorized to negotiate changes in work hours (requirements for split shift work), but only with respect to operating passenger-only ferry service, to be included in a collective bargaining agreement in effect during the 2003-05 biennium that differs from provisions regarding work hours in the prior collective bargaining agreement. The department must report to the transportation committees of the legislature by December 1, 2003.

(4) \$866,000 of the multimodal transportation account—state appropriation and \$200,000 of the Puget Sound ferry operations account—state appropriation are provided solely for operating costs associated with the Bremerton to Seattle passenger-only ferry service for thirteen weeks.

(5) The department shall study the potential for private or public partners, including but not limited to King county, to provide passenger-only ferry service from Vashon to Seattle. The department shall report to the legislative transportation committees by December 31, 2003.

(6) The Washington state ferries shall continue to provide service to Sidney, British Columbia.

(7) When augmenting the existing ferry fleet, the department of transportation ferry capital program shall explore cost-effective options to include the leasing of ferries from private-sector organizations.

(8) The Washington state ferries shall work with the department of general administration, office of state procurement to improve the existing fuel procurement process and solicit, identify, and evaluate, purchasing alternatives to reduce the overall cost of fuel and mitigate the impact of market fluctuations and pressure on both short- and long-term fuel costs. Consideration shall include, but not be limited to, long-term fuel contracts, partnering with other public entities, and possibilities for fuel storage in evaluating strategies and options. The department shall report back to the transportation committees of the legislature by December 1, 2003, on the options, strategies, and recommendations for managing fuel purchases and costs.

(9) The department must provide a separate accounting of passenger-only ferry service costs and auto ferry service costs, and must provide periodic

reporting to the legislature on the financial status of both passenger-only and auto ferry service in Washington state.

(10) The Washington state ferries must work with the department's information technology division to implement a new revenue collection system, including the integration of the regional fare coordination system (smart card). Each December, annual updates are to be provided to the transportation committees of the legislature concerning the status of implementing and completing this project, with updates concluding the first December after full project implementation.

(11) The Washington state ferries shall evaluate the benefits and costs of selling the depreciation rights to ferries purchased by the state in the future through sale and lease-back agreements, as permitted under RCW 47.60.010. The department is authorized to issue a request for proposal to solicit proposals from potential buyers. The department must report to the transportation committees of the legislature by December 1, 2004, on the options, strategies, and recommendations for sale/lease-back agreements on existing ferry boats as well as future ferry boat purchases.

NEW SECTION. Sec. 226. FOR THE DEPARTMENT OF TRANSPORTATION—RAIL—PROGRAM Y—OPERATING

Multimodal Transportation Account—State

Appropriation \$35,075,000

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

(1) \$30,831,000 of the multimodal transportation account—state appropriation is provided solely for the Amtrak service contract and Talgo maintenance contract associated with providing and maintaining the state-supported passenger rail service.

(2) No Amtrak Cascade runs may be eliminated.

(3) The department is directed to explore scheduling changes that will reduce the delay in Seattle when traveling from Portland to Vancouver B.C.

(4) The department is directed to explore opportunities with British Columbia (B.C.) concerning the possibility of leasing an existing Talgo trainset to B.C. during the day for a commuter run when the Talgo is not in use during the Bellingham layover.

NEW SECTION. Sec. 227. FOR THE DEPARTMENT OF TRANSPORTATION—LOCAL PROGRAMS—PROGRAM Z—OPERATING

Motor Vehicle Account—State Appropriation \$7,057,000

Motor Vehicle Account—Federal Appropriation \$2,569,000

TOTAL APPROPRIATION \$9,626,000

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

(1) Up to \$75,000 of the total appropriation is provided in accordance with RCW 46.68.110(2) and 46.68.120(3) to fund the state's share of the 2004 Washington marine cargo forecast study. Public port districts, acting through their association, must provide funding to cover the remaining cost of the forecast.

(2) \$300,000 of the motor vehicle account—state appropriation is provided in accordance with RCW 46.68.110(2) and 46.68.120(3) solely to fund a study of the threats posed by flooding to the state and other infrastructure near the Interstate 5 crossing of the Skagit River. This funding is contingent on the receipt of federal matching funds.

TRANSPORTATION AGENCIES—CAPITAL

NEW SECTION. Sec. 301. FOR THE WASHINGTON STATE PATROL

State Patrol Highway Account—State Appropriation \$2,205,000

The appropriation in this section is subject to the following conditions and limitations: \$625,000 of the state patrol highway account appropriation is provided solely for the patrol's share of the Shelton area water and sewer regional plan. However, this amount is contingent on general fund—state funding of the Washington corrections center's portion of the Shelton area water and sewer regional plan. If general fund—state funding is not provided, the amount provided in this subsection shall lapse.

NEW SECTION. Sec. 302. FOR THE COUNTY ROAD ADMINISTRATION BOARD

Rural Arterial Trust Account—State Appropriation. \$61,660,000
Motor Vehicle Account—State Appropriation \$362,000
County Arterial Preservation Account—State
Appropriation. \$28,747,000
TOTAL APPROPRIATION \$90,769,000

The appropriations in this section are subject to the following conditions and limitations: \$362,000 of the motor vehicle account—state appropriation is provided for county ferries as set forth in RCW 47.56.725(4).

NEW SECTION. Sec. 303. FOR THE TRANSPORTATION IMPROVEMENT BOARD

Urban Arterial Trust Account—State Appropriation \$99,201,000
Transportation Improvement Account—State Appropriation \$98,215,000
TOTAL APPROPRIATION \$197,416,000

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

(1) The transportation improvement account—state appropriation includes \$23,955,000 in proceeds from the sale of bonds authorized in RCW 47.26.500. The transportation improvement board may authorize the use of current revenues available to the agency in lieu of bond proceeds for any part of the state appropriation.

(2) The transportation improvement board shall maintain grant funding currently approved for the SR 3/SR 303 Interchange (Waaga Way).

NEW SECTION. Sec. 304. FOR THE DEPARTMENT OF TRANSPORTATION—PROGRAM D (DEPARTMENT OF TRANSPORTATION-ONLY PROJECTS)—CAPITAL

Motor Vehicle Account—State Appropriation \$17,296,000

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

(1) The entire motor vehicle account—state appropriation is provided solely to implement the activities and projects included in the Legislative 2003 Transportation Project List - Current Law report as transmitted to LEAP on April 27, 2003.

(2) The department shall develop a standard design for all maintenance facilities to be funded under this section. Prior to developing design standards, the department must solicit input from all personnel classifications typically employed at maintenance facilities. By September 1, 2003, the department shall submit a report to the legislative transportation committees describing the stakeholder involvement process undertaken and the adopted design standards for maintenance facilities.

***NEW SECTION. Sec. 305. FOR THE DEPARTMENT OF TRANSPORTATION—IMPROVEMENTS—PROGRAM I**

Transportation 2003 Account (Nickel Account)—State	
Appropriation.....	\$565,300,000
Transportation 2003 Account (Nickel Account)—Federal	
Appropriation.....	\$950,000
Transportation 2003 Account (Nickel Account)—Local	
Appropriation.....	\$3,434,000
Motor Vehicle Account—State Appropriation	\$157,374,000
Motor Vehicle Account—Federal Appropriation	\$192,940,000
Motor Vehicle Account—Local Appropriation	\$13,258,000
Special Category C Account—State Appropriation.....	\$50,279,000
Tacoma Narrows Toll Bridge Account Appropriation	\$613,300,000
TOTAL APPROPRIATION	\$1,596,835,000

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

(1) \$157,374,000 of the motor vehicle account—state appropriation, \$192,940,000 of the motor vehicle account—federal appropriation, \$13,258,000 of the motor vehicle account—local appropriation, and \$50,279,000 of the special category C account—state appropriation are provided solely to implement the activities and projects included in the Legislative 2003 Transportation Project List - Current Law report as transmitted to LEAP on April 27, 2003.

(2) The motor vehicle account—state appropriation includes \$78,000,000 in proceeds from the sale of bonds authorized by RCW 47.10.843. The transportation commission may authorize the use of current revenues available to the department of transportation in lieu of bond proceeds for any part of the state appropriation. The motor vehicle account—state appropriation includes \$18,038,000 in unexpended proceeds from bond sales authorized in RCW 47.10.843 for mobility and economic initiative improvement projects.

(3) The Tacoma Narrows toll bridge account—state appropriation includes \$567,000,000 in proceeds from the sale of bonds authorized by RCW 47.10.843. The Tacoma Narrows toll bridge account—state appropriation includes \$46,300,000 in unexpended proceeds from the January 2003 bond sale authorized in RCW 47.10.843 for the Tacoma Narrows bridge project.

(4) The special category C account—state appropriation includes \$44,000,000 in proceeds from the sale of bonds authorized by RCW 47.10.812. The transportation commission may authorize the use of current revenues available in the special category C account in lieu of bond proceeds for any part of the state appropriation.

(5) The entire transportation 2003 account (nickel account) appropriation is provided solely for the projects and activities as indicated in the Legislative 2003 Transportation Project List - New Law report transmitted to LEAP on April 27, 2003.

(6) The motor vehicle account—state appropriation includes \$280,000,000 in proceeds from the sale of bonds authorized by Senate Bill No. 6062. The transportation commission may authorize the use of current revenues available to the department of transportation in lieu of bond proceeds for any part of the state appropriation.

(7) \$11,000,000 of the motor vehicle account—state appropriation is provided solely for the environmental impact statement on the SR 520 Evergreen floating bridge.

(8) \$250,000 of the transportation 2003 account (Nickel Account)—state appropriation and an equal amount from the city of Seattle are provided solely for an analysis of the impacts that an expansion of the SR 520 Evergreen floating bridge will have on the streets of North Capitol Hill, Roanoke Park, and Montlake. An advisory committee with two members each from Portage Bay/Roanoke Park Community Council, Montlake Community Council, and the North Capitol Hill community organization along with the secretary of transportation is established. The seven-member committee shall hire and oversee the contract with a transportation consulting organization to: (a) Perform an analysis of such impacts; and (b) design a traffic and circulation plan that mitigates the adverse consequences of such impacts. If the city of Seattle does not agree to provide \$250,000 by January 1, 2004, the amount provided in this subsection shall lapse.

(9)(a) \$500,000 of the motor vehicle account—state appropriation is provided solely for a study to provide the legislature with information regarding the feasibility of pursuing a Washington commerce corridor. The department shall retain outside experts to conduct the study. The study must include the following conditions:

(i) The Washington commerce corridor must be a north-south corridor starting in the vicinity of Lewis county and extending northerly to the vicinity of the Canadian border. The corridor must be situated east of state route number 405 and west of the Cascades. The corridor may include any of the following features:

- (A) Ability to carry long-haul freight;
- (B) Ability to provide for passenger auto travel;
- (C) Freight rail;
- (D) Passenger rail;
- (E) Public utilities; and

(F) Other ancillary facilities as may be desired to maximize use of the corridor;

(ii) The Washington commerce corridor must be developed, financed, designed, constructed, and operated by private sector consortiums; and

(iii) The Washington commerce corridor must be subject to a joint permitting process involving federal, state, and local agencies with jurisdiction.

(b) The legislative transportation committee shall form a working group to work with the department and the outside consultant on the study.

(10) \$8,000,000 of the motor vehicle account—state appropriation is provided for the SR 522, University of Washington-Bothell campus access project. This amount will cover approximately one-half of the construction costs.

(11) The transportation permit efficiency and accountability committee (TPEAC) shall select from the project list under this subsection ten projects that have not yet secured state permits. TPEAC shall select projects from both urban and rural areas representing a wide variety of locations within the state. These projects shall be designated "Department of Transportation Permit Drafting Pilot Projects" and shall become a part of the work plan of TPEAC required under section 2(1)(b), chapter 8 (ESB 5279), Laws of 2003.

(12) Of the amounts appropriated in this section and section 306 of this act, no more than \$124,000 is provided for increased project costs due to the enactment of Substitute Senate Bill No. 5457.

(13) If federal earmarks are received by the department, the funding must not be used to expand the scope of any project.

(14) To manage some projects more efficiently, federal funds may be transferred from program Z to program I to replace those federal funds in a dollar-for-dollar match. However, funds may not be transferred between federal programs. Fund transfers authorized under this subsection shall not affect project prioritization status. Appropriations shall initially be allotted as appropriated in this act. The department shall not transfer funds as authorized under this subsection without approval of the transportation commission and the director of financial management. The department shall submit a report on those projects receiving fund transfers to the transportation committees of the senate and house of representatives by December 1, 2004.

(15) The department of transportation may not operate any existing high-occupancy vehicle lanes and may not open or operate any new high-occupancy vehicle lane projects in counties with a population of 300,000 or more that border the state of Oregon unless: (a) Vehicle spaces at park and ride lots within the county are three times the capacity in existence on the effective date of this act; (b) the Interstate 5 bridge over the Columbia River is retrofitted to include four southbound general purpose lanes; and (c) the department of transportation determines that high-occupancy vehicle lanes will improve travel time by at least eight minutes over the length of the high-occupancy vehicle lanes.

**Sec. 305 was partially vetoed. See message at end of chapter.*

***NEW SECTION. Sec. 306. FOR THE DEPARTMENT OF TRANSPORTATION—PRESERVATION—PROGRAM P**

Transportation 2003 Account (Nickel Account)	\$2,000,000
Motor Vehicle Account—State Appropriation	\$178,909,000
Motor Vehicle Account—Federal Appropriation	\$457,467,000
Motor Vehicle Account—Local Appropriation	\$12,666,000
Multimodal Account—State Appropriation	\$6,000,000
Multimodal Account—Federal Appropriation	\$4,247,000

TOTAL APPROPRIATION \$661,289,000

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

(1) \$178,909,000 of the motor vehicle account—state appropriation, \$457,467,000 of the motor vehicle account—federal appropriation, \$12,666,000 of the motor vehicle account—local appropriation, \$6,000,000 of the multimodal transportation account—state appropriation, and \$4,247,000 of the multimodal transportation account—federal appropriation are provided solely to implement the activities and projects included in the Legislative 2003 Transportation Project List - Current Law report transmitted to LEAP on April 27, 2003.

(2) The motor vehicle account—state appropriation includes \$2,850,000 in proceeds from the sale of bonds authorized in RCW 47.10.761 and 47.10.762 for emergency purposes.

(3) The motor vehicle account—state appropriation includes \$77,700,000 in proceeds from the sale of bonds authorized by RCW 47.10.843. The transportation commission may authorize the use of current revenues available to the department of transportation in lieu of bond proceeds for any part of the state appropriation.

(4) The entire transportation 2003 account (nickel account) appropriation is provided solely for the projects and activities as indicated in the Legislative 2003 Transportation Project List - New Law report transmitted to LEAP on April 27, 2003.

(5) The department of transportation shall continue to implement the lowest life cycle cost planning approach to pavement management throughout the state to encourage the most effective and efficient use of pavement preservation funds. Emphasis should be placed on increasing the number of roads addressed on time and reducing the number of roads past due.

(6) Of the amounts appropriated in this section and section 305 of this act, no more than \$124,000 is provided for increased project costs due to the enactment of Substitute Senate Bill No. 5457.

(7) If federal earmarks are received by the department, the funding must not be used to expand the scope of any project.

(8) To manage some projects more efficiently, federal funds may be transferred from program Z to program P to replace those federal funds in a dollar-for-dollar match. However, funds may not be transferred between federal programs. Fund transfers authorized under this subsection shall not affect project prioritization status. Appropriations shall initially be allotted as appropriated in this act. The department shall not transfer funds as authorized under this subsection without approval of the transportation commission and the director of financial management. The department shall submit a report on those projects receiving fund transfers to the transportation committees of the senate and house of representatives by December 1, 2004.

**Sec. 306 was partially vetoed. See message at end of chapter.*

NEW SECTION. Sec. 307. FOR THE DEPARTMENT OF TRANSPORTATION—TRAFFIC OPERATIONS—PROGRAM Q—CAPITAL

Motor Vehicle Account—State Appropriation \$11,688,000

Motor Vehicle Account—Federal Appropriation	\$14,510,000
Multimodal Transportation Account—State Appropriation	\$3,000,000
TOTAL APPROPRIATION	\$29,198,000

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

(1) The amounts provided in this section are provided solely to implement the activities and projects included in the Legislative 2003 Transportation Project List - Current Law report transmitted to LEAP on April 27, 2003.

(2) The motor vehicle account—state appropriation includes \$9,408,000 for state matching funds for federally selected competitive grant or congressional earmark projects other than the commercial vehicle information systems and network. These moneys shall be placed into reserve status until such time as federal funds are secured that require a state match.

NEW SECTION. Sec. 308. FOR THE DEPARTMENT OF TRANSPORTATION—WASHINGTON STATE FERRIES CONSTRUCTION—PROGRAM W

Puget Sound Capital Construction Account—	
State Appropriation	\$129,066,000
Puget Sound Capital Construction Account—	
Federal Appropriation	\$34,400,000
Multimodal Transportation Account—State Appropriation	\$13,381,000
Transportation 2003 Account (nickel account)	
Appropriation	\$5,749,000
TOTAL APPROPRIATION	\$182,596,000

The appropriations in this section are provided for improving the Washington state ferry system, including, but not limited to, vessel construction, major and minor vessel improvements, and terminal construction and improvements. The appropriations in this section are subject to the following conditions and limitations:

(1) The multimodal transportation account—state appropriation includes \$11,772,000 in proceeds from the sale of bonds authorized by Senate Bill No. 6062. The transportation commission may authorize the use of current revenues available to the department of transportation in lieu of bond proceeds for any part of the state appropriation.

(2) \$129,066,000 of the Puget Sound capital construction account—state appropriation and \$34,400,000 of the Puget Sound capital construction account—federal appropriation are provided solely for capital projects as listed in the Legislative 2003 Transportation Project List - Current Law as transmitted to the LEAP on April 27, 2003.

(3) \$17,521,000 of the transportation 2003 account (nickel account)—state appropriation is provided solely for capital projects as listed in the Legislative 2003 Transportation Project List - New Law as transmitted to the LEAP on April 27, 2003.

(4) The Puget Sound capital construction account—state appropriation includes \$45,000,000 in proceeds from the sale of bonds authorized by RCW 47.10.843 for vessel and terminal acquisition, major and minor improvements, and long lead time materials acquisition for the Washington state ferries. The transportation commission may authorize the use of current revenues available

to the motor vehicle account in lieu of bond proceeds for any part of the state appropriation.

(5) The Washington state ferries shall consult with the United States Coast Guard regarding operational and design standards required to meet Safety of Life at Sea requirements, in an effort to determine the most efficient and cost-effective vessel design that meets these requirements.

NEW SECTION. Sec. 309. FOR THE DEPARTMENT OF TRANSPORTATION—RAIL—PROGRAM Y—CAPITAL

Essential Rail Assistance Account—State Appropriation	\$770,000
Multimodal Transportation Account—State Appropriation	\$35,530,000
Multimodal Transportation Account—Federal Appropriation	\$9,499,000
Washington Fruit Express Account—State Appropriation	\$500,000
TOTAL APPROPRIATION	\$46,299,000

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

(1) The multimodal transportation account—state appropriation includes \$30,000,000 in proceeds from the sale of bonds authorized by Senate Bill No. 6062. The transportation commission may authorize the use of current revenues available to the department of transportation in lieu of bond proceeds for any part of the state appropriation.

(2) \$5,530,000 of the multimodal transportation account—state appropriation, \$9,499,000 of the multimodal transportation account—federal appropriation, \$500,000 of the Washington fruit express account—state appropriation, and \$770,000 of the essential rail assistance account—state appropriation are provided solely for capital projects as listed in the Legislative 2003 Transportation Project List - Current Law as transmitted to the LEAP on April 27, 2003.

(3) \$2,000,000 of the multimodal transportation account—state appropriation is to be placed in reserve status by the office of financial management to be held until the department identifies the location for a new transload facility at either Wenatchee or Quincy. The funds are to be released upon determination of a location and approval by the office of financial management.

(4) \$30,000,000 of the multimodal transportation account—state appropriation is provided solely for capital projects as listed in the Legislative 2003 Transportation Project List - New Law as transmitted to the LEAP on April 27, 2003.

(5) If federal block grant funding for freight or passenger rail is received, the department shall consult with the legislative transportation committee prior to spending the funds on additional projects.

(6) If the department issues a call for projects, applications must be received by the department by November 1, 2003, and November 1, 2004.

NEW SECTION. Sec. 310. FOR THE DEPARTMENT OF TRANSPORTATION—LOCAL PROGRAMS—PROGRAM Z—CAPITAL

Highway Infrastructure Account—State Appropriation	\$207,000
Highway Infrastructure Account—Federal Appropriation	\$1,602,000
Motor Vehicle Account—State Appropriation	\$28,425,000

Multimodal Transportation Account—State Appropriation	\$13,726,000
TOTAL APPROPRIATION	\$43,960,000

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

(1) \$6,000,000 of the multimodal transportation account—state appropriation is provided solely for the projects and activities as indicated in the Legislative 2003 Transportation Project List - New Law Local Projects report transmitted to LEAP on April 27, 2003.

(2) To manage some projects more efficiently, federal funds may be transferred from program Z to programs I and P and state funds shall be transferred from programs I and P to program Z to replace those federal funds in a dollar-for-dollar match. However, funds may not be transferred between federal programs. Fund transfers authorized under this subsection shall not affect project prioritization status. Appropriations shall initially be allotted as appropriated in this act. The department may not transfer funds as authorized under this subsection without approval of the transportation commission. The department shall submit a report on those projects receiving fund transfers to the transportation committees of the senate and house of representatives by December 1, 2004.

(3) \$7,576,000 of the multimodal transportation account—state appropriation is reappropriated and provided solely to fund the first phase of a multiphase cooperative project with the state of Oregon to dredge the Columbia River. If dredge material is disposed of in the ocean, the department shall not expend the appropriation in this subsection unless agreement on ocean disposal sites has been reached that protects the state's commercial crab fishery. The amount provided in this subsection shall lapse unless the state of Oregon appropriates a dollar-for-dollar match to fund its share of the project.

(4) \$1,156,000 of the motor vehicle account—state appropriation is reappropriated and provided solely for additional small city pavement preservation program grants, to be administered by the department's highways and local programs division. The department shall review all projects receiving grant awards under this program at least semiannually to determine whether the projects are making satisfactory progress. Any project that has been awarded small city pavement preservation program grant funds, but does not report activity on the project within one year of grant award, should be reviewed by the department to determine whether the grant should be terminated. The department must promptly close out grants when projects have been completed, and identify where unused grant funds remain because actual project costs were lower than estimated in the grant award. The department shall expeditiously extend new grant awards to qualified projects when funds become available either because grant awards have been rescinded for lack of sufficient project activity or because completed projects returned excess grant funds upon project closeout.

(5) \$4,010,000 of the motor vehicle account—state appropriation is reappropriated and provided solely for additional traffic and pedestrian safety improvements near schools. The highways and local programs division within the department of transportation shall administer this program. The department shall review all projects receiving grant awards under this program at least

semiannually to determine whether the projects are making satisfactory progress. Any project that has been awarded traffic and pedestrian safety improvement grant funds, but does not report activity on the project within one year of grant award should be reviewed by the department to determine whether the grant should be terminated. The department must promptly close out grants when projects have been completed, and identify where unused grant funds remain because actual project costs were lower than estimated in the grant award. The department shall expeditiously extend new grant awards to qualified projects when funds become available either because grant awards have been rescinded for lack of sufficient project activity or because completed projects returned excess grant funds upon project closeout.

(6) The motor vehicle account—state appropriation includes \$20,452,000 in unexpended proceeds from the sale of bonds authorized by RCW 47.10.843.

(7) The multimodal transportation account—state appropriation includes \$6,000,000 in proceeds from the sale of bonds authorized by Senate Bill No. 6062. The transportation commission may authorize the use of current revenues available to the department of transportation in lieu of bond proceeds for any part of the state appropriation.

TRANSFERS AND DISTRIBUTIONS

NEW SECTION. Sec. 401. FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALES DISCOUNTS AND DEBT TO BE PAID BY MOTOR VEHICLE ACCOUNT AND TRANSPORTATION FUND REVENUE

Highway Bond Retirement Account Appropriation	\$258,971,000
Nondebt-Limit Reimbursable Account Appropriation	\$4,131,000
Ferry Bond Retirement Account Appropriation	\$43,340,000
Transportation Improvement Board Bond Retirement Account—State Appropriation	\$36,721,000
Motor Vehicle Account—State Appropriation	\$3,876,000
Special Category C Account—State Appropriation	\$331,000
Transportation Improvement Account—State Appropriation	\$240,000
Multimodal Transportation Account—State Appropriation	\$358,000
Transportation 2003 Account (nickel account) Appropriation	\$2,100,000
TOTAL APPROPRIATION	\$350,068,000

NEW SECTION. Sec. 402. FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALE EXPENSES AND FISCAL AGENT CHARGES

Motor Vehicle Account—State Appropriation	\$1,293,000
Special Category C Account Appropriation	\$111,000
Transportation Improvement Account—State Appropriation	\$5,000
Multimodal Transportation Account—State Appropriation	\$119,000
Transportation 2003 Account (nickel account)—State	

Appropriation.....	\$700,000
TOTAL APPROPRIATION.....	\$2,228,000

NEW SECTION. Sec. 403. FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR MVFT BONDS AND TRANSFERS

(1) Motor Vehicle Account—State Reappropriation:
For transfer to the Tacoma Narrows toll bridge account

	\$567,000,000
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The department of transportation is authorized to sell up to \$567,000,000 in bonds authorized by RCW 47.10.843 for the Tacoma Narrows bridge project. Proceeds from the sale of the bonds shall be deposited into the motor vehicle account. The department of transportation shall inform the treasurer of the amount to be deposited.

(2) Motor Vehicle Account—State Appropriation:
For transfer to the Puget Sound capital construction account

	\$45,000,000
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The department of transportation is authorized to sell up to \$45,000,000 in bonds authorized by RCW 47.10.843 for vessel and terminal acquisition, major and minor improvements, and long lead-time materials acquisition for the Washington state ferries.

NEW SECTION. Sec. 404. FOR THE STATE TREASURER—STATE REVENUES FOR DISTRIBUTION

Motor Vehicle Account Appropriation for motor vehicle fuel tax distributions to cities and counties

	\$441,359,000
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Motor Vehicle Account—State Appropriation:
For license permit and fee distributions to cities and counties

	\$51,652,000
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NEW SECTION. Sec. 405. FOR THE STATE TREASURER—TRANSFERS

(1) State Patrol Highway Account—State Appropriation: For transfer to the Motor Vehicle Account

	\$20,000,000
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(2) Motor Vehicle Account—State Appropriation: For motor vehicle fuel tax refunds and transfers

	\$465,152,000
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(3) Highway Safety Account—State Appropriation: For transfer to the motor vehicle account—state

	\$12,000,000
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The state treasurer shall perform the transfers from the state patrol highway account and the highway safety account to the motor vehicle account on a quarterly basis.

NEW SECTION. Sec. 406. FOR THE DEPARTMENT OF TRANSPORTATION—TRANSFERS

(1) Motor Vehicle Account—State Appropriation:

For transfer to Puget Sound Ferry Operations Account	\$21,757,000
(2) RV Account—State Appropriation:	
For transfer to the Motor Vehicle Account—State	\$1,954,000
(3) Motor Vehicle Account—State Appropriation:	
For transfer to Puget Sound Capital Construction Account	\$64,287,000
(4) Puget Sound Ferry Operations Account—State Appropriation:	
For transfer to Puget Sound Capital Construction Account	\$22,000,000

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

- (a) The department of transportation shall only transfer funds in subsections (2) and (3) of this section up to the level provided, on an as-needed basis.
- (b) The department of transportation shall transfer funds in subsection (4) of this section up to the amount identified, provided that a minimum balance of \$5,000,000 is retained in the Puget Sound ferry operations account.
- (c) The amount identified in subsection (4) of this section may not include any revenues collected as passenger fares.

NEW SECTION. Sec. 407. FOR THE DEPARTMENT OF RETIREMENT SYSTEMS—TRANSFERS

State Patrol Highway Account: For transfer to the department of retirement systems expense account:
 For the administrative expenses of the judicial retirement system \$223,304

NEW SECTION. Sec. 408. FOR THE OFFICE OF FINANCIAL MANAGEMENT—CONTRIBUTIONS TO RETIREMENT SYSTEMS AND EMPLOYEE HEALTH BENEFITS

Pilotage Account—State Appropriation	\$2,000
Aeronautics Account—State Appropriation	\$12,000
State Patrol Highway Account—State Appropriation	\$2,044,000
State Patrol Highway Account—Federal Appropriation	\$34,000
State Patrol Highway Account—Local Appropriation	\$10,000
Motorcycle Safety Education Account—State Appropriation	\$2,000
Rural Arterial Trust Account—State Appropriation	\$4,000
Highway Safety Account—State Appropriation	\$634,000
Highway Safety Account—Federal Appropriation	\$19,000
Motor Vehicle Account—State Appropriation	\$2,770,000
Puget Sound Ferry Operations Account—State Appropriation	\$1,556,000
Urban Arterial Trust Account—State Appropriation	\$8,000
Transportation Improvement Account—State Appropriation	\$3,000
County Arterial Preservation Account—State Appropriation	\$5,000
Department of Licensing Services Account—State Appropriation	\$3,000

TOTAL APPROPRIATION \$7,106,000

***NEW SECTION. Sec. 409. FOR THE STATE TREASURER—TRANSFERS**

License Plate Technology Account: For transfer to the motor vehicle account—state: For the implementation of House Bill No. 2065. \$2,901,000

If House Bill No. 2065 is not enacted by June 30, 2003, this section is null and void.

**Sec. 409 was vetoed. See message at end of chapter.*

NEW SECTION. Sec. 410. STATUTORY APPROPRIATIONS.

In addition to the amounts appropriated in this act for revenue for distribution, state contributions to the law enforcement officers' and fire fighters' retirement system, and bond retirement and interest including ongoing bond registration and transfer charges, transfers, interest on registered warrants, and certificates of indebtedness, there is also appropriated such further amounts as may be required or available for these purposes under any statutory formula or under any proper bond covenant made under law.

NEW SECTION. Sec. 411. The department of transportation is authorized to undertake federal advance construction projects under the provisions of 23 U.S.C. Sec. 115 in order to maintain progress in meeting approved highway construction and preservation objectives. The legislature recognizes that the use of state funds may be required to temporarily fund expenditures of the federal appropriations for the highway construction and preservation programs for federal advance construction projects prior to conversion to federal funding.

2001-03 BIENNIUM

TRANSPORTATION AGENCIES

Sec. 1201. 2002 c 359 s 205 (uncodified) is amended to read as follows:

FOR THE LEGISLATIVE TRANSPORTATION COMMITTEE

Motor Vehicle Account—State Appropriation \$3,596,000

The appropriation in this section is subject to the following conditions and limitations and specified amounts are provided solely for that activity:

(1) \$2,823,000 of the motor vehicle account—state appropriation is provided for the operation of the house of representatives transportation committee.

(2) To the extent possible, this appropriation shall utilize funds allocated under RCW 46.68.110(2).

(3) To the extent possible, this appropriation shall utilize funds allocated under RCW 46.68.120(3).

(4) The house of representatives transportation committee shall conduct a study of the use of motorized scooters. The study shall, at a minimum, identify and analyze the safety issues associated with use of motorized scooters, including use by children, commuters, and the disabled. House of representatives transportation committee cochairs shall each appoint one member from their respective caucus to serve as cochair of the study group. The

chair of the senate transportation committee may also appoint two members from the senate transportation committee, one from each caucus, to participate in the study. The study shall be staffed by house of representatives transportation committee staff. The study group shall report back to the house of representatives transportation committee by January 1, 2002.

~~((4))~~ (5) The house of representatives transportation committee shall conduct a study of the effect of the weight of fire-fighting apparatus on state roadways. The study shall determine, at a minimum, the various types of fire-fighting apparatus currently in use on state roadways; the size, weight and load effect of fire-fighting apparatus that are currently in use or that potentially could be in use on the state roadways, as well as on state bridges; and the effect on public safety. The study may examine state and federal laws that affect fire-fighting apparatuses. House of representatives transportation committee cochairs shall each appoint one member from their respective caucus to serve as cochair of the study group. The study shall be staffed by house of representatives transportation committee staff. The study group will report back to the house of representatives transportation committee by January 1, 2002.

~~((5))~~ (6) The legislative transportation committee shall conduct a feasibility study of potential for economic partnerships between the Washington state ferries and local government entities, including but not limited to port districts. The study is intended to improve ferry terminals. The study shall, at a minimum, identify the market, physical, and economic factors that should be examined in determining whether an economic or commercial development partnership project on or around Washington state ferry terminals is likely to produce revenue for the partners. The study shall apply those factors to an analysis of each terminal used by Washington state ferries and recommend whether further exploration of state and local partnerships would be of potential economic benefit to the partners. The entity selected to perform the study through the request for proposals process will report back to the transportation committees of the legislature by December 1, 2001.

~~((6))~~ (7) The legislative transportation committee, in cooperation with an areawide transportation system or systems, shall undertake an evaluation of providing locally sponsored transit services in a local community supplemental to those services provided by an areawide system. The evaluation shall address:

- (a) The costs and benefits of providing such services;
- (b) The impact of such service on ridership on the areawide system and on any regional systems;
- (c) Funding options for supplemental services; and
- (d) Institutional arrangements affecting the institution of supplemental services.

The committee shall work with the department of transportation, areawide transit providers, community officials, private businesses, labor organizations, and others as appropriate in conducting the evaluation, and in developing a pilot project if feasible. The committee shall also conduct a study of local transit systems with the purpose of making recommendations to make local transit services more seamless and efficient. The committee shall provide an interim progress report to the legislature by January 2002. The committee shall report its findings to the legislature not later than December 1, 2002.

~~((7))~~ (8) The legislative transportation committee shall undertake an evaluation of the statutory exemptions for transportation taxes, including but not limited to motor vehicle fuel taxes. The committee shall report its findings to the legislature by December 1, 2003.

~~((8))~~ (9) The legislative transportation committee will convene a working group to review the costs, processes, and other considerations relating to special vehicle license plates. The working group will also review special license plate tabs and emblems. The committee will report its findings to the legislature by December 1, 2002.

~~((9))~~ (10) The legislative transportation committee shall form a working group to evaluate the feasibility of developing an alternative corridor to Interstate 5 and Interstate 405 to expedite the movement of commerce between the Canadian border, the central Puget Sound region, the south Puget Sound region, and more southerly areas. The corridor would run from approximately the Canadian border in the north to approximately Lewis county in the south. This alternative corridor analysis shall address truck, rail, pipeline, and other utility needs for the corridor, to determine the feasibility of financing and constructing such a corridor, taking into consideration: (a) Anticipated present and future freight demand as well as freight traffic relief for existing state highway and rail routes; (b) the potential for carrying general purpose traffic to provide relief for other state highway routes; (c) a cost-benefit analysis detailing various funding possibilities, including federal funds and the use of charges and tolls to fund construction and operation of the corridor as a utility corridor and a toll facility; (d) an analysis detailing possible right of way locations, including but not limited to property donations, trades, or credits between or among the public and private sector; and (e) possible private sector, local, or other partnerships that may be used to fund the project. The working group shall report its findings to the full committee by December 15, 2002.

Sec. 1202. 2002 c 359 s 207 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE PATROL—FIELD OPERATIONS BUREAU

State Patrol Highway Account—	
State Appropriation	(\$164,147,000)
	<u>\$163,727,000</u>
State Patrol Highway Account—	
Federal Appropriation	(\$7,278,000)
	<u>\$7,544,000</u>
State Patrol Highway Account—	
Private/Local Appropriation	(\$169,000)
	<u>\$282,000</u>
TOTAL APPROPRIATION	(\$171,594,000)
	<u>\$171,553,000</u>

The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for the activities of the field operations bureau:

(1) As a result of the elimination of the vehicle inspection number (VIN) program, no permanent Washington state patrol employee shall be displaced from employment without the opportunity to fill a vacant patrol position for

which he or she has a preference and meets the minimum qualifications. For the purpose of the VIN program elimination, the guidelines under chapter 356-26 WAC (Registers-Certifications) shall be suspended for those employees holding the classification of VIN 1 or 2.

(2) To the extent possible, the agency shall transfer displaced VIN personnel into the 20 newly created school bus inspection and motor carrier safety assistance program positions. The agency shall fill existing vacant positions within the commercial vehicle division with displaced VIN personnel. The agency shall report by December 31, 2001, to the senate and house of representatives transportation committees on efforts to relocate displaced VIN personnel.

Sec. 1203. 2002 c 359 s 208 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE PATROL—SUPPORT SERVICES BUREAU

Multimodal Transportation Account—State

Appropriation \$5,247,000

State Patrol Highway Account—

State Appropriation ((~~\$71,736,000~~))
\$71,418,000

State Patrol Highway Account—

Private/Local Appropriation \$735,000

TOTAL APPROPRIATION ((~~\$77,718,000~~))
\$77,400,000

The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for the activities of the support services bureau:

(1) \$67,000 of the state patrol highway account—state appropriation is provided solely for the patrol to work jointly with the department of transportation, the military department, and the department of natural resources, in coordination with the state interoperability executive committee, on the development and implementation of a secure geographical information system database to illustrate locations and specifications of statewide radio and microwave towers

(2) \$5,247,000 of the multimodal transportation account—state appropriation and \$2,299,000 of the state patrol highway account—state appropriation is a one time funding of general fund activities. The general fund will resume funding these activities beginning in the 2003-05 biennium.

(3) The Washington state patrol shall review the policy of allowing commissioned uniformed officers to use personally assigned vehicles for commuting purposes. This provision applies to every Washington state patrol officer except the chief and any officer that requires use of a vehicle for work performed throughout the day. The agency shall submit to the house of representatives and senate transportation committees by December 1, 2002, a list of officers that use vehicles for commuting purposes and any revisions to the vehicle use policy resulting from the review required under this subsection.

Sec. 1204. 2002 c 359 s 210 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF LICENSING—MANAGEMENT AND SUPPORT SERVICES

Marine Fuel Tax Refund Account—State	
Appropriation	\$3,000
Motorcycle Safety Education Account—	
State Appropriation	\$88,000
Wildlife Account—State Appropriation	\$81,000
Highway Safety Account—State Appropriation	(\$7,724,000)
	<u>\$7,763,000</u>
Highway Safety Account—Federal Appropriation	\$55,000
Motor Vehicle Account—State Appropriation	(\$4,400,000)
	<u>\$4,415,000</u>
Licensing Services Account—State	
Appropriation	\$173,000
TOTAL APPROPRIATION	(\$12,524,000)
	<u>\$12,578,000</u>

The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for the activities referenced:

(1) \$6,000 of the motor vehicle account—state appropriation is provided solely for the implementation of Senate Bill No. 5354 in the form passed by the legislature. If Senate Bill No. 5354 is not enacted in the form passed by the legislature the amount provided in this subsection shall lapse.

(2) \$14,000 of the motor vehicle account—state appropriation and \$3,000 of the highway safety account—state appropriation are provided solely for the implementation of Senate Bill No. 6814 in the form passed by the legislature. If Senate Bill No. 6814 is not enacted in the form passed by the legislature the amounts provided in this subsection shall lapse.

(3) \$26,000 of the motor vehicle account—state appropriation and \$1,000 of the highway safety account—state appropriation are provided solely for the implementation of Senate Bill No. 6748 in the form passed by the legislature. If Senate Bill No. 6748 is not enacted in the form passed by the legislature the amount provided in this subsection shall lapse.

(4) \$2,000 of the motor vehicle account—state appropriation and \$4,000 of the highway safety account—state appropriation is provided solely for the implementation of Senate Bill No. 5626 in the form passed by the legislature. If Senate Bill No. 5626 is not enacted in the form passed by the legislature the amount provided in this subsection shall lapse.

(5) \$11,000 of the highway safety account—state appropriation is provided solely for the implementation of Senate Bill No. 6461 in the form passed by the legislature. If Senate Bill No. 6461 is not enacted in the form passed by the legislature the amount provided in this subsection shall lapse.

Sec. 1205. 2002 c 359 s 211 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF LICENSING—INFORMATION SYSTEMS

Marine Fuel Tax Refund Account—State	
Appropriation	\$2,000
Motorcycle Safety Education Account—	

State Appropriation	\$13,000
Wildlife Account—State Appropriation	\$34,000
Highway Safety Account—State Appropriation	(\$5,735,000)
	<u>\$5,763,000</u>
Highway Safety Account—Federal Appropriation	\$31,000
Motor Vehicle Account—State Appropriation	(\$3,695,000)
	<u>\$3,707,000</u>
Licensing Services Account—State Appropriation	(\$213,000)
	<u>\$214,000</u>
TOTAL APPROPRIATION	(\$9,723,000)
	<u>\$9,764,000</u>

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

(1) The department of licensing shall report to the legislative transportation committees on the progress of the expanded internet service no later than December 15, 2002.

(2) \$4,000 of the motor vehicle account—state appropriation is provided solely for the implementation of Senate Bill No. 5354 in the form passed by the legislature. If Senate Bill No. 5354 is not enacted in the form passed by the legislature the amount provided in this subsection shall lapse.

(3) \$4,000 of the motor vehicle account—state appropriation and \$2,000 of the highway safety account—state appropriation are provided solely for the implementation of Senate Bill No. 6814 in the form passed by the legislature. If Senate Bill No. 6814 is not enacted in the form passed by the legislature the amounts provided in this subsection shall lapse.

(4) \$19,000 of the motor vehicle account—state appropriation and \$1,000 of the highway safety account—state appropriation are provided solely for the implementation of Senate Bill No. 6748 in the form passed by the legislature. If Senate Bill No. 6748 is not enacted in the form passed by the legislature the amounts provided in this subsection shall lapse.

(5) \$1,000 of the motor vehicle account—state appropriation and \$3,000 of the highway safety account—state appropriation are provided solely for the implementation of Senate Bill No. 5626 in the form passed by the legislature. If Senate Bill No. 5626 is not enacted in the form passed by the legislature the amount provided in this subsection shall lapse.

(6) \$8,000 of the highway safety account—state appropriation is provided solely for the implementation of Senate Bill No. 6461 in the form passed by the legislature. If Senate Bill No. 6461 is not enacted in the form passed by the legislature the amount provided in this subsection shall lapse.

Sec. 1206. 2002 c 359 s 212 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF LICENSING—VEHICLE SERVICES

Marine Fuel Tax Refund Account—

State Appropriation	\$26,000
Wildlife Account—State Appropriation	\$578,000
Motor Vehicle Account—State Appropriation	(\$58,191,000)
	<u>\$58,479,000</u>

Licensing Services Account—State

Appropriation.....	\$4,240,000
TOTAL APPROPRIATION.....	(\$63,035,000)
	<u>\$63,323,000</u>

The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for the activities referenced:

(1) \$82,000 of the motor vehicle account—state appropriation is provided solely for the implementation of Senate Bill No. 6814 in the form passed by the legislature. If Senate Bill No. 6814 is not enacted in the form passed by the legislature the amount provided in this subsection shall lapse.

(2) \$376,000 of the motor vehicle account—state appropriation is provided solely for the implementation of Senate Bill No. 6748 in the form passed by the legislature. If Senate Bill No. 6748 is not enacted in the form passed by the legislature the amount provided in this subsection shall lapse.

(3) \$77,000 of the motor vehicle account—state appropriation is provided solely for the implementation of Senate Bill No. 5354 in the form passed by the legislature. If Senate Bill No. 5354 is not enacted in the form passed by the legislature the amount provided in this subsection shall lapse.

(4) The department shall work cooperatively with the national guard to develop and make available a national guard sticker which may be affixed to a license plate. The stickers shall be available upon application. The department shall charge a fee for the stickers sufficient to defray the costs of production.

(5) The department shall work cooperatively with the Washington state council of fire fighters to develop and make available a fire fighter sticker which may be affixed to a license plate. The stickers shall be available upon application to members of the international association of fire fighters. The department shall charge a fee for the stickers sufficient to defray the costs of production.

(6) \$22,000 of the motor vehicle account—state appropriation is provided solely for the implementation of Senate Bill No. 5626 in the form passed by the legislature. If Senate Bill No. 5626 is not enacted in the form passed by the legislature the amount provided in this subsection shall lapse.

Sec. 1207. 2002 c 359 s 213 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF LICENSING—DRIVER SERVICES

Motorcycle Safety Education Account—

State Appropriation	\$2,573,000
Highway Safety Account—State Appropriation	(\$82,175,000)
	<u>\$82,667,000</u>
Highway Safety Account—Federal Appropriation	(\$788,000)
	<u>\$824,000</u>
TOTAL APPROPRIATION.....	(\$85,536,000)
	<u>\$86,064,000</u>

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

(1) The department of licensing shall prepare a capital project plan adopting a process for using certificates of participation to purchase licensing services

offices if the combined principle and interest payments are the same or less than existing or future leases on comparable facilities.

(2) \$21,000 of the highway safety fund—state appropriation is provided solely for the implementation of Senate Bill No. 6748 in the form passed by the legislature. If Senate Bill No. 6748 is not enacted in the form passed by the legislature the amount provided in this subsection shall lapse.

(3) \$36,000 of the highway safety fund—state appropriation is provided solely for the implementation of Senate Bill No. 6814 in the form passed by the legislature. If Senate Bill No. 6814 is not enacted in the form passed by the legislature the amount provided in this subsection shall lapse.

(4) \$162,000 of the highway safety account—state appropriation is provided solely for the implementation of Senate Bill No. 6461 in the form passed by the legislature. If Senate Bill No. 6461 is not enacted in the form passed by the legislature the amount provided in this subsection shall lapse.

(5) \$56,000 of the highway safety account—state appropriation is provided solely for the implementation of Senate Bill No. 5626 in the form passed by the legislature. If Senate Bill No. 5626 is not enacted in the form passed by the legislature the amount provided in this subsection shall lapse.

Sec. 1208. 2002 c 359 s 215 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—AVIATION—PROGRAM F

Aeronautics Account—State Appropriation	(((\$5,349,000)) \$4,967,000
Aircraft Search and Rescue Safety and Education Account—State Appropriation	\$160,000
TOTAL APPROPRIATION	(((\$5,509,000)) \$5,127,000

Sec. 1209. 2002 c 359 s 223 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—CHARGES FROM OTHER AGENCIES—PROGRAM U

Payments in this section represent charges from other state agencies to the department of transportation.

(1) FOR PAYMENT OF WASHINGTON STATE FERRIES TORT LIABILITY AND SETTLEMENTS

Motor Vehicle Account—State Appropriation \$5,626,000

((+)) (2) FOR PAYMENT OF DEPARTMENT OF GENERAL ADMINISTRATION OFFICE OF RISK MANAGEMENT FEES

Motor Vehicle Account—State Appropriation \$464,000
Puget Sound Ferry Operations—State

Appropriation \$154,000

((2)) (3) FOR PAYMENT OF COSTS OF THE OFFICE OF THE STATE AUDITOR

Motor Vehicle Account—State Appropriation \$713,000

((3)) (4) FOR PAYMENT OF COSTS OF DEPARTMENT OF GENERAL ADMINISTRATION FACILITIES AND SERVICES AND CONSOLIDATED MAIL SERVICES

Motor Vehicle Account—State Appropriation \$4,047,000

((4)) (5) FOR PAYMENT OF COSTS OF THE DEPARTMENT OF PERSONNEL

Motor Vehicle Account—State Appropriation \$2,237,000

((5)) (6) FOR PAYMENT OF SELF-INSURANCE LIABILITY PREMIUMS AND ADMINISTRATION

Motor Vehicle Account—State Appropriation \$28,755,000

Motor Vehicle Fund—Puget Sound Ferry Operations Account—
State Appropriation \$4,204,000

The office of risk management shall evaluate the risk pool premium assessments to ensure that proper tracking, measuring, and reporting methods have been utilized to ensure funding equity has been maintained. "Funding equity" includes but is not limited to demonstrating that premiums assessed to the department of transportation will, over time, not exceed claims paid in order to ensure that premiums paid by the department of transportation are not unconstitutionally expended for nonhighway purposes. The office of risk management shall make a full report of its findings to the legislature no later than January 15, 2002.

(6) FOR PAYMENT OF COSTS OF OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES

Motor Vehicle Account—State Appropriation \$251,000

(7) FOR PAYMENT OF THE DEPARTMENT OF GENERAL ADMINISTRATION CAPITAL PROJECTS SURCHARGE

Motor Vehicle Account—State Appropriation \$1,547,000

(8) FOR ARCHIVES AND RECORDS MANAGEMENT

Motor Vehicle Account—State Appropriation \$457,000

TOTAL APPROPRIATION ~~(\$42,829,000)~~
\$48,455,000

Sec. 1210. 2002 c 359 s 225 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—WASHINGTON STATE FERRIES CONSTRUCTION—PROGRAM W

Motor Vehicle Account—State
Appropriation ~~\$(134,390,000)~~
\$136,052,000

Motor Vehicle Account—Federal
Appropriation ~~\$(37,472,000)~~
\$35,810,000

Passenger Ferry Account—State Appropriation \$1,500,000

Passenger Ferry Account—Federal
Appropriation \$4,000,000

TOTAL APPROPRIATION \$177,362,000

The appropriations in this section are provided for improving the Washington state ferry system, including, but not limited to, vessel acquisition, vessel construction, major and minor vessel improvements, and terminal construction and improvements. The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for that activity:

(1) The motor vehicle account—state appropriation includes \$50,000,000 in proceeds from the sale of bonds authorized by RCW 47.10.843 for vessel and terminal acquisition, major and minor improvements, and long lead time materials acquisition for the Washington state ferries. The transportation commission may authorize the use of current revenues available to the motor vehicle account in lieu of bond proceeds for any part of the state appropriation.

(2) Appropriations in this section include funding for the purchase or lease-purchase of one passenger ferry and assume the proceeds of the sale of the MV Kalama and MV Skagit passenger ferries shall be deposited in the passenger ferry account.

(3) The department shall provide staff support to a legislative oversight committee that will manage a study of the Eagle Harbor maintenance facility. The legislative oversight committee shall consist of two members from each caucus in each house of the legislature, appointed by the leadership of the members' respective caucus. The department shall issue a request for proposals on behalf of the legislative oversight committee for an outside consulting firm to conduct a study on the preservation, replacement, or supplementation of the Eagle Harbor maintenance facility. The study must analyze: (a) The costs and benefits to preserve and maintain or relocate the facility; (b) the impact of Eagle Harbor employment on the local community and Kitsap county; and (c) a recommendation on future investment in the Eagle Harbor maintenance facility or possible alternatives. The contractor and the legislative oversight committee must report back to the legislature's transportation committees no later than December 10, 2002.

Sec. 1211. 2002 c 359 s 226 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—MARINE—PROGRAM X

Puget Sound Ferry Operations Account—State

Appropriation. ((~~\$311,312,000~~))
\$313,250,000

The appropriation in this section is subject to the following conditions and limitations and specified amounts are provided solely for that activity:

(1) The appropriation is based on the budgeted expenditure of ((~~\$35,159,000~~)) \$35,797,000 for vessel operating fuel in the 2001-2003 biennium. If the actual cost of fuel is less than this budgeted amount, the excess amount may not be expended. If the actual cost exceeds this amount, the department shall request a supplemental appropriation.

(2) The appropriation provides for the compensation of ferry employees. The expenditures for compensation paid to ferry employees during the 2001-2003 biennium may not exceed \$207,065,000 plus a dollar amount, as prescribed by the office of financial management, that is equal to any insurance benefit increase granted general government employees in excess of \$432.82 a month annualized per eligible marine employee multiplied by the number of eligible marine employees for the respective fiscal year, a dollar amount as prescribed by the office of financial management for costs associated with pension amortization charges, and a dollar amount prescribed by the office of financial management for salary increases during the 2001-2003 biennium. For the purposes of this section, the expenditures for compensation paid to ferry

employees shall be limited to salaries and wages and employee benefits as defined in the office of financial management's policies, regulations, and procedures named under objects of expenditure "A" and "B" (7.2.6.2).

The prescribed salary and insurance benefit increase or decrease dollar amount that shall be allocated from the governor's compensation appropriations is in addition to the appropriation contained in this section and may be used to increase or decrease compensation costs, effective July 1, 2001, and thereafter, as established in the 2001-2003 general fund operating budget.

(3) The department shall issue a request for information from entities interested in purchasing advertising on board Washington state ferry vessels. The department shall evaluate the proposals and report back to the legislature's transportation committees in January 2002 regarding the potential for revenue from different types of advertising.

(4) The department may enter into contracts with private vendors to sell ferry tickets and medium at locations other than Washington state ferry terminals or facilities.

(a) The department may enter into the contracts only (i) with private vendors that are already established businesses offering goods for sale to the general public; and (ii) if it determines that the vendor's established location has the potential to serve a significant percentage of the customers using a particular ferry route.

(b) The department may adopt necessary rules and procedures to allow the use of credit and debit cards to purchase ferry tickets or medium from a private vendor who has contracted with the department to sell ferry tickets or medium. The department may establish a convenience fee to be paid by all persons purchasing ferry tickets and medium at locations other than Washington state ferry terminals or facilities. The convenience fee must be sufficient to offset the charges imposed on the department by the credit and debit card companies. In no event may the use of credit or debit cards authorized by this section create a loss of revenue to the state. The use of a personal credit card does not rely upon the credit of the state as prohibited by Article VIII, section 5 of the state Constitution.

(5) The legislature recognizes the value of a regional fare collection system to promote intermodal travel throughout Washington state ferries' Puget Sound service area and therefore encourages the department to resume participation in the regional fare coordination project (smart card). The department shall develop a request for funding of the on-going operating costs associated with the regional fare coordination project and shall present this request to the 2003 legislature. The request for funding shall be sufficient to support a system that prevents the disclosure of personally identifying information of persons who use a smart card to facilitate payment of ferry fares. The requested system may facilitate the disclosure of aggregate information on fare collection to governmental agencies or groups concerned with public transportation or public safety as long as the data does not contain any personally identifying information. The requested system shall not prevent the release of personally identifying information to law enforcement agencies when required by a subpoena.

TRANSPORTATION AGENCIES—CAPITAL

Sec. 1301. 2001 2nd sp.s. c 14 s 303 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—PROGRAM D
(DEPARTMENT OF TRANSPORTATION-ONLY PROJECTS)—
CAPITAL**

Motor Vehicle Account—State Appropriation((~~\$13,046,000~~))
\$12,371,000

Sec. 1302. 2002 c 359 s 216 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—
IMPROVEMENTS—PROGRAM I**

Motor Vehicle Account—State Appropriation((~~\$417,472,000~~))
\$416,921,000

Motor Vehicle Account—Federal Appropriation \$230,929,000

Motor Vehicle Account—Private/Local
Appropriation \$48,872,000

Tacoma Narrows Toll Bridge Account—State
Appropriation \$839,000,000

Special Category C Account—State
Appropriation \$49,608,000

TOTAL APPROPRIATION((~~\$1,585,881,000~~))
\$1,585,330,000

The appropriations in this section are provided for the location, design, right of way acquisition, or construction of state highway projects designated as improvements under RCW 47.05.030. The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for that activity:

(1) The special category C account—state appropriation of \$49,608,000 includes \$41,500,000 in proceeds from the sale of bonds authorized in RCW 47.10.812. The transportation commission may authorize the use of current revenues available to the department of transportation in lieu of bond proceeds for any part of the state appropriation.

(2) The department shall report December 1st and June 1st of each year to the senate and the house of representatives transportation committees and the office of financial management on the timing and the scope of work being performed for the regional transit authority known as sound transit. This report shall provide a description of all department activities related to the regional transit authority including investments in state-owned infrastructure.

(3) The motor vehicle account—state appropriation includes \$348,364,000 in proceeds from the sale of bonds authorized by RCW 47.10.843. The transportation commission may authorize the use of current revenues available to the department of transportation in lieu of bond proceeds for any part of the state appropriation.

(4) \$4,880,000 of the motor vehicle account—state appropriation is provided solely for the state program share of freight mobility projects as identified by the freight mobility strategic investment board.

(5) To manage some projects more efficiently, federal funds may be transferred from program Z to programs I and P and state funds shall be transferred from programs I and P to program Z to replace those federal funds in a dollar-for-dollar match. Fund transfers authorized under this subsection shall not affect project prioritization status. Appropriations shall initially be allotted as appropriated in this act. The department shall not transfer funds as authorized under this subsection without approval of the transportation commission and the director of financial management. The department shall submit a report on those projects receiving fund transfers to the transportation committees of the senate and house of representatives by December 1, 2002.

(6) The motor vehicle account—state appropriation includes \$3,898,000 in unexpended proceeds from the January 2001 bond sale authorized in RCW 47.10.834 for the Tacoma Narrows bridge project. The transportation commission may authorize the use of current revenues available to the department of transportation in-lieu of bond proceeds for any part of the state appropriation.

(7) The Tacoma narrows toll bridge account—state appropriation includes \$800,000,000 in proceeds from the sale of bonds authorized by RCW 47.10.843.

TRANSFERS AND DISTRIBUTIONS

Sec. 1401. 2002 c 359 s 401 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALES DISCOUNTS AND DEBT TO BE PAID BY MOTOR VEHICLE FUND AND TRANSPORTATION FUND REVENUE

Highway Bond Retirement Account Appropriation	(\$208,206,000)
	<u>\$196,524,000</u>
Ferry Bond Retirement Account Appropriation	(\$52,473,000)
	<u>\$52,474,000</u>
Transportation Improvement Board Bond Retirement Account—State Appropriation	(\$40,856,000)
	<u>\$38,088,000</u>
Motor Vehicle Account—State Appropriation	(\$4,588,000)
	<u>\$3,136,000</u>
Special Category C Account—State Appropriation	(\$631,000)
	<u>\$114,000</u>
Transportation Improvement Account—State Appropriation	(\$340,000)
	<u>\$76,000</u>
TOTAL APPROPRIATION	(\$307,094,000)
	<u>\$290,412,000</u>

Sec. 1402. 2002 c 359 s 402 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALE EXPENSES AND FISCAL AGENT CHARGES

Motor Vehicle Account—State Appropriation	(((\$459,000))
	<u>\$334,000</u>
Special Category C Account Appropriation	(((\$41,000))
	<u>\$18,000</u>
Transportation Improvement Account—State Appropriation.	\$34,000
TOTAL APPROPRIATION	(((\$534,000))
	<u>\$386,000</u>

Sec. 1403. 2002 c 359 s 403 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER—STATE REVENUES FOR DISTRIBUTION

Motor Vehicle Account Appropriation for motor vehicle fuel tax distributions to cities and counties.	(((\$428,981,000))
	<u>\$425,501,000</u>

Motor Vehicle Account Appropriation for
motor vehicle license, permit, and fee distributions
to cities and counties. \$56,304,000

Sec. 1404. 2002 c 359 s 404 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER—TRANSFERS

(1) RV Account—State Appropriation:

For transfer to the Motor Vehicle Fund—State	(((\$1,344,000))
	<u>\$542,000</u>

The department of transportation shall only transfer funds provided under this subsection (~~((1) of this section~~)) on an as-needed basis.

(2) (~~Public Transportation Systems Account—
State Appropriation: For transfer to the
Multimodal Transportation Account—State~~) \$1,911,000

(3) State Patrol Highway Account—State
Appropriation: For transfer to the Motor
Vehicle Account \$48,657,000

(4) (3) Motor Vehicle Account—State
Appropriation: For motor vehicle fuel tax
refunds and transfers. (((\$453,279,000))

\$448,264,000

(5) (4) Urban Arterial Trust Account—State
Appropriation: For transfer of excess City
Hardship Assistance Program revenues to
cities \$1,500,000

(6) (5) Highway Safety Account—State
Appropriation: For transfer to the multimodal
transportation account. \$20,000,000

(7) (6) Motor Vehicle Account—State
Appropriation: For transfer to the Tacoma
Narrows toll bridge account (((\$839,000,000))

\$39,000,000

(8) (7) Highway Safety Account—State

Appropriation: For transfer to the motor vehicle account—state \$5,000,000

((+)) If Senate Bill No. 6814 is enacted in the form passed by the legislature, \$16,191,000 of the transfer from the Washington state patrol account—state to the motor vehicle account—state shall lapse. The state treasurer shall perform the transfers from the state patrol highway account to the motor vehicle account on a quarterly basis.

~~((2) The department of transportation is authorized to sell up to \$800,000,000 in bonds authorized by RCW 47.10.843 for the Tacoma Narrows bridge project. Proceeds from the sale of the bonds shall be deposited into the motor vehicle account. The department of transportation shall inform the treasurer of the amount to be deposited.))~~

NEW SECTION. Sec. 1405. A new section is added to 2001 2nd sp.s. c 14 (uncodified) to read as follows:

FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR MVFT BONDS AND TRANSFERS

Motor Vehicle Account—State Appropriation: For transfer to the Tacoma Narrows toll bridge account \$800,000,000

The department of transportation is authorized to sell up to \$800,000,000 in bonds authorized by RCW 47.10.843 for the Tacoma Narrows bridge project. Proceeds from the sale of the bonds shall be deposited into the motor vehicle account. The department of transportation shall inform the treasurer of the amount to be deposited.

PROVISIONS NECESSARY TO IMPLEMENT APPROPRIATIONS

NEW SECTION. Sec. 1501. A new section is added to chapter 43.79 RCW to read as follows:

The state patrol nonappropriated airplane revolving account is created in the custody of the state treasurer. All receipts from aircraft user fees paid by other agencies and private users as reimbursement for the use of the patrol's aircraft that are primarily for purposes other than highway patrol must be deposited into the account. Expenditures from the account may be used only for expenses related to these aircraft. Only the chief of the Washington state patrol or the chief's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

NEW SECTION. Sec. 1502. 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. 1503. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

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PROGRAM S	2005
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 FIELD OPERATIONS BUREAU 1999, 2024
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WASHINGTON TRAFFIC SAFETY COMMISSION 1995

Passed by the House April 26, 2003.

Passed by the Senate April 26, 2003.

Approved by the Governor May 19, 2003, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 19, 2003.

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

"I am returning herewith, without my approval as to sections 212(4); 305(13); 305(15); 306(7); and 409, Engrossed Substitute House Bill No. 1163, entitled:

"AN ACT Relating to transportation funding and appropriations;"

Section 212(4), Page 12, House Bill No. 2065

This proviso allocates \$2,901,000 from the motor vehicle account - state to the Department of Licensing (DOL) for implementation of House Bill No. 2065 relating to new license plate technology.

House Bill No. 2065 would require DOL to phase-in digital license plates starting July 1, 2004, with full implementation by January 1, 2007.

With so many other pressing transportation demands, the substantial six-year cost of \$10.3 million is not warranted at this time. However, I support digital license plate technology and intend to retain the twenty-five cent registration fee for deposit in the license plate technology account as provided in House Bill No. 2065. While providing the savings for this eventual transition, we can take a more deliberative approach to designing a system that best fits the state’s needs. I intend to veto much of House Bill No. 2065, thus, this proviso is unnecessary.

In the meantime, I have directed the DOL to continue to explore new and innovative ways to utilize technology advancements to improve services and to provide the most cost effective business practices possible. We will continue to work with the appropriate legislative committees to address the intent of House Bill No. 2065 in a more cost effective manner.

Section 305(13), Page 29, Department of Transportation - Improvements - Program I

Section 305(13) would have prevented federal funds from being used to expand the scope of any improvement project receiving appropriation in section 305.

The provisions outlined in this subsection could unnecessarily limit the department from receiving federal funds earmarked for an existing transportation improvement project. I believe it is unwise to preclude the expenditure of federal monies that may even further advance these projects.

Section 305(15), Page 29, Department of Transportation - Improvements - Program I

Section 305(15) would have prevented the continued operation of the high-occupancy vehicle (HOV) lane pilot project in Clark County, which was established in partnership with the Regional Transportation Council.

The provisions outlined in this subsection would effectively eliminate the ability to continue the HOV pilot project in Clark County. There is strong support by a majority of local agencies in Clark County to continue this pilot project for two more years. Additionally, the HOV lane is achieving six of the eight goals established at the beginning of the pilot project.

Section 306(7), Page 30, Department of Transportation - Preservation - Program P

Section 306(7) would have prevented federal funds from being used to expand the scope of any preservation project receiving appropriation in section 306.

The provisions outlined in this subsection could unnecessarily limit the department from receiving federal earmarks for existing preservation projects. I believe it is unwise to preclude the expenditure of federal monies that may even further advance these projects.

Section 409, Page 39, For the State Treasurer - Transfers

This section transfers \$2,901,000 from the License Plate Technology Account to the motor vehicle account - state pursuant to House Bill No. 2065, which I intend to veto substantial portions of. For the reasons outlined with respect to section 212(4) above, this transfer is not required.

I also have concerns about the following section of this bill that I would have vetoed but for the following interpretations of legislative intent.

Section 225(3), Page 22, Multimodal Transportation Account - State

This section directs the Washington State Ferries to "...develop a plan to increase passenger-only farebox recovery to at least forty percent by July 1, 2003 with an additional goal of eighty percent, through increased fares, lower operating costs, and other cost-saving measures as appropriate." Given that the time required to implement a fare increase sufficient to achieve 40% farebox recovery would extend well beyond July 1, 2003, I therefore understand the intent of this proviso to mean that the Washington State Ferries must complete the referenced plan by July 1, 2003 and report on the plan to the transportation committees of the legislature by December 1, 2003.

In order to implement the aforementioned plan, subsection 225(3) also authorizes the Washington State Ferry System to "...negotiate changes in work hours (requirements for split shift work), but only with respect to operating passenger-only ferry service..." I believe that this proviso is in no way intended to limit or alter the rights of ferry system management or ferry system employee organizations under RCW 47.64.120 to negotiate with respect to work hours and schedules for auto ferry service.

For these reasons, I have vetoed sections 212(4); 305(13); 305(15); 306(7); and 409 of Engrossed Substitute House Bill No. 1163.

With the exception of sections 212 (4); 305(13); 305(15); 306(7); and 409, Engrossed Substitute House Bill No. 1163 is approved."

CHAPTER 361

[Engrossed Substitute House Bill 2231]

TRANSPORTATION REVENUE

AN ACT Relating to transportation and financing; amending RCW 46.16.070, 46.68.035, 82.08.020, 82.12.020, 82.12.045, 82.08.064, 82.38.030, 82.38.035, 82.38.047, 46.09.170, 46.10.170, 79A.25.070, and 46.16.233; reenacting and amending RCW 82.36.025, 46.68.090, 46.68.110, and 43.84.092; adding a new section to chapter 46.16 RCW; adding a new section to chapter 46.68 RCW; creating new sections; and providing effective dates.

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

PART I - INTENT

NEW SECTION. Sec. 101. The legislature finds that the state's transportation system is in critical need of repair, restoration, and enhancement. The states economy, the ability to move goods to market, and the overall mobility and safety of the citizens of the state rely on the state's transportation system. The revenues generated by this act are dedicated to funds, accounts, and activities that are necessary to improve the delivery of state transportation projects and services.

PART II - LICENSE FEES

Sec. 201. RCW 46.16.070 and 1994 c 262 s 8 are each amended to read as follows:

(1) In lieu of all other vehicle licensing fees, unless specifically exempt, and in addition to ((the excise tax prescribed in chapter 82.44 RCW and)) the mileage fees prescribed for buses and stages in RCW 46.16.125, there shall be paid and collected annually for each truck, motor truck, truck tractor, road tractor, tractor, bus, auto stage, or for hire vehicle with seating capacity of more than six, based upon the declared combined gross weight or declared gross weight ((thereof pursuant to the provisions of)) under chapter 46.44 RCW, the following licensing fees by such gross weight:

DECLARED GROSS WEIGHT	SCHEDULE A	SCHEDULE B
4,000 lbs.	\$ 37.00	\$ 37.00
6,000 lbs.	\$ 44.00	\$ 44.00
8,000 lbs.	\$ 55.00	\$ 55.00
10,000 lbs.	\$ 62.00	\$ 62.00
(12,000 lbs.	\$ 72.00	\$ 72.00
14,000 lbs.	\$ 82.00	\$ 82.00
16,000 lbs.	\$ 92.00	\$ 92.00
16,000 lbs.	\$ 137.00	\$ 137.00
20,000 lbs.	\$ 152.00	\$ 152.00
22,000 lbs.	\$ 164.00	\$ 164.00
24,000 lbs.	\$ 177.00	\$ 177.00
26,000 lbs.	\$ 187.00	\$ 187.00
28,000 lbs.	\$ 220.00	\$ 220.00
30,000 lbs.	\$ 253.00	\$ 253.00
22,000 lbs.	\$ 304.00	\$ 304.00
34,000 lbs.	\$ 323.00	\$ 323.00
26,000 lbs.	\$ 350.00	\$ 350.00
38,000 lbs.	\$ 384.00	\$ 384.00
40,000 lbs.	\$ 439.00	\$ 439.00
42,000 lbs.	\$ 456.00	\$ 546.00
42,000 lbs.	\$ 466.00	\$ 556.00
26,000 lbs.	\$ 501.00	\$ 591.00
48,000 lbs.	\$ 522.00	\$ 612.00

50,000 lbs.	\$	566.00	\$	656.00
52,000 lbs.	\$	595.00	\$	685.00
54,000 lbs.	\$	642.00	\$	732.00
56,000 lbs.	\$	677.00	\$	767.00
56,000 lbs.	\$	704.00	\$	794.00
50,000 lbs.	\$	750.00	\$	840.00
62,000 lbs.	\$	804.00	\$	894.00
64,000 lbs.	\$	822.00	\$	912.00
66,000 lbs.	\$	915.00	\$	1,005.00
68,000 lbs.	\$	954.00	\$	1,044.00
70,000 lbs.	\$	1,027.00	\$	1,117.00
72,000 lbs.	\$	1,098.00	\$	1,188.00
72,000 lbs.	\$	1,193.00	\$	1,283.00
76,000 lbs.	\$	1,289.00	\$	1,379.00
70,000 lbs.	\$	1,407.00	\$	1,497.00
80,000 lbs.	\$	1,518.00	\$	1,608.00
80,000 lbs.	\$	1,623.00	\$	1,713.00
84,000 lbs.	\$	1,728.00	\$	1,818.00
84,000 lbs.	\$	1,833.00	\$	1,923.00
88,000 lbs.	\$	1,938.00	\$	2,028.00
90,000 lbs.	\$	2,043.00	\$	2,133.00
92,000 lbs.	\$	2,148.00	\$	2,238.00
94,000 lbs.	\$	2,253.00	\$	2,343.00
96,000 lbs.	\$	2,253.00	\$	2,448.00
92,000 lbs.	\$	2,463.00	\$	2,553.00
100,000 lbs.	\$	2,568.00	\$	2,658.00
102,000 lbs.	\$	2,673.00	\$	2,763.00
102,000 lbs.	\$	2,778.00	\$	2,868.00
105,500 lbs.	\$	2,883.00	\$	2,973.00))
<u>12,000 lbs.</u>	<u>\$</u>	<u>79.00</u>	<u>\$</u>	<u>79.00</u>
<u>14,000 lbs.</u>	<u>\$</u>	<u>90.00</u>	<u>\$</u>	<u>90.00</u>
<u>16,000 lbs.</u>	<u>\$</u>	<u>102.00</u>	<u>\$</u>	<u>102.00</u>
<u>18,000 lbs.</u>	<u>\$</u>	<u>154.00</u>	<u>\$</u>	<u>154.00</u>
<u>20,000 lbs.</u>	<u>\$</u>	<u>171.00</u>	<u>\$</u>	<u>171.00</u>
<u>22,000 lbs.</u>	<u>\$</u>	<u>185.00</u>	<u>\$</u>	<u>185.00</u>
<u>24,000 lbs.</u>	<u>\$</u>	<u>200.00</u>	<u>\$</u>	<u>200.00</u>
<u>26,000 lbs.</u>	<u>\$</u>	<u>211.00</u>	<u>\$</u>	<u>211.00</u>
<u>28,000 lbs.</u>	<u>\$</u>	<u>249.00</u>	<u>\$</u>	<u>249.00</u>
<u>30,000 lbs.</u>	<u>\$</u>	<u>287.00</u>	<u>\$</u>	<u>287.00</u>
<u>32,000 lbs.</u>	<u>\$</u>	<u>346.00</u>	<u>\$</u>	<u>346.00</u>
<u>34,000 lbs.</u>	<u>\$</u>	<u>368.00</u>	<u>\$</u>	<u>368.00</u>
<u>36,000 lbs.</u>	<u>\$</u>	<u>399.00</u>	<u>\$</u>	<u>399.00</u>
<u>38,000 lbs.</u>	<u>\$</u>	<u>438.00</u>	<u>\$</u>	<u>438.00</u>
<u>40,000 lbs.</u>	<u>\$</u>	<u>501.00</u>	<u>\$</u>	<u>501.00</u>

<u>42,000 lbs.</u>	\$	<u>521.00</u>	\$	<u>611.00</u>
<u>44,000 lbs.</u>	\$	<u>532.00</u>	\$	<u>622.00</u>
<u>46,000 lbs.</u>	\$	<u>572.00</u>	\$	<u>662.00</u>
<u>48,000 lbs.</u>	\$	<u>596.00</u>	\$	<u>686.00</u>
<u>50,000 lbs.</u>	\$	<u>647.00</u>	\$	<u>737.00</u>
<u>52,000 lbs.</u>	\$	<u>680.00</u>	\$	<u>770.00</u>
<u>54,000 lbs.</u>	\$	<u>734.00</u>	\$	<u>824.00</u>
<u>56,000 lbs.</u>	\$	<u>775.00</u>	\$	<u>865.00</u>
<u>58,000 lbs.</u>	\$	<u>806.00</u>	\$	<u>896.00</u>
<u>60,000 lbs.</u>	\$	<u>859.00</u>	\$	<u>949.00</u>
<u>62,000 lbs.</u>	\$	<u>921.00</u>	\$	<u>1,011.00</u>
<u>64,000 lbs.</u>	\$	<u>941.00</u>	\$	<u>1,031.00</u>
<u>66,000 lbs.</u>	\$	<u>1,048.00</u>	\$	<u>1,138.00</u>
<u>68,000 lbs.</u>	\$	<u>1,093.00</u>	\$	<u>1,183.00</u>
<u>70,000 lbs.</u>	\$	<u>1,177.00</u>	\$	<u>1,267.00</u>
<u>72,000 lbs.</u>	\$	<u>1,259.00</u>	\$	<u>1,349.00</u>
<u>74,000 lbs.</u>	\$	<u>1,368.00</u>	\$	<u>1,458.00</u>
<u>76,000 lbs.</u>	\$	<u>1,478.00</u>	\$	<u>1,568.00</u>
<u>78,000 lbs.</u>	\$	<u>1,614.00</u>	\$	<u>1,704.00</u>
<u>80,000 lbs.</u>	\$	<u>1,742.00</u>	\$	<u>1,832.00</u>
<u>82,000 lbs.</u>	\$	<u>1,863.00</u>	\$	<u>1,953.00</u>
<u>84,000 lbs.</u>	\$	<u>1,983.00</u>	\$	<u>2,073.00</u>
<u>86,000 lbs.</u>	\$	<u>2,104.00</u>	\$	<u>2,194.00</u>
<u>88,000 lbs.</u>	\$	<u>2,225.00</u>	\$	<u>2,315.00</u>
<u>90,000 lbs.</u>	\$	<u>2,346.00</u>	\$	<u>2,436.00</u>
<u>92,000 lbs.</u>	\$	<u>2,466.00</u>	\$	<u>2,556.00</u>
<u>94,000 lbs.</u>	\$	<u>2,587.00</u>	\$	<u>2,677.00</u>
<u>96,000 lbs.</u>	\$	<u>2,708.00</u>	\$	<u>2,798.00</u>
<u>98,000 lbs.</u>	\$	<u>2,829.00</u>	\$	<u>2,919.00</u>
<u>100,000 lbs.</u>	\$	<u>2,949.00</u>	\$	<u>3,039.00</u>
<u>102,000 lbs.</u>	\$	<u>3,070.00</u>	\$	<u>3,160.00</u>
<u>104,000 lbs.</u>	\$	<u>3,191.00</u>	\$	<u>3,281.00</u>
<u>105,500 lbs.</u>	\$	<u>3,312.00</u>	\$	<u>3,402.00</u>

Schedule A applies to vehicles either used exclusively for hauling logs or that do not tow trailers. Schedule B applies to vehicles that tow trailers and are not covered under Schedule A.

Every truck, motor truck, truck tractor, and tractor exceeding 6,000 pounds empty scale weight registered under chapter 46.16, 46.87, or 46.88 RCW shall be licensed for not less than one hundred fifty percent of its empty weight unless the amount would be in excess of the legal limits prescribed for such a vehicle in RCW 46.44.041 or 46.44.042, in which event the vehicle shall be licensed for the maximum weight authorized for such a vehicle or unless the vehicle is used only for the purpose of transporting any well drilling machine, air compressor, rock crusher, conveyor, hoist, donkey engine, cook house, tool house, bunk house, or similar machine or structure attached to or made a part of such vehicle.

The following provisions apply when increasing gross or combined gross weight for a vehicle licensed under this section:

(a) The new license fee will be one-twelfth of the fee listed above for the new gross weight, multiplied by the number of months remaining in the period for which licensing fees have been paid, including the month in which the new gross weight is effective.

(b) Upon surrender of the current certificate of registration or cab card, the new licensing fees due shall be reduced by the amount of the licensing fees previously paid for the same period for which new fees are being charged.

(2) The proceeds from the fees collected under subsection (1) of this section shall be distributed in accordance with RCW 46.68.035.

Sec. 202. RCW 46.68.035 and 2000 2nd sp.s. c 4 s 8 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) The sum of two dollars for each vehicle shall be deposited into the multimodal transportation account, 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) ~~((23.677))~~ 21.963 percent shall be deposited into the state patrol highway account of the motor vehicle fund;

(b) ~~((1.521))~~ 1.411 percent shall be deposited into the Puget Sound ferry operations account of the motor vehicle fund; ~~((and))~~

(c) 7.240 percent shall be deposited into the transportation 2003 account ~~(nickel account); and~~

(d) The remaining proceeds shall be deposited into the motor vehicle fund.

PART III - SALES AND USE TAX

Sec. 301. RCW 82.08.020 and 2000 2nd sp.s. c 4 s 1 are each amended to read as follows:

(1) There is levied and there shall be collected a tax on each retail sale in this state equal to six and five-tenths percent of the selling price.

(2) There is levied and there shall be collected an additional tax on each retail car rental, regardless of whether the vehicle is licensed in this state, equal to five and nine-tenths percent of the selling price. The revenue collected under this subsection shall be deposited in the multimodal transportation account created in RCW 47.66.070.

(3) Beginning July 1, 2003, there is levied and collected an additional tax of three-tenths of one percent of the selling price on each retail sale of a motor vehicle in this state, other than retail car rentals taxed under subsection (2) of this section. The revenue collected under this subsection shall be deposited in the multimodal transportation account created in RCW 47.66.070.

(4) For purposes of subsection (3) of this section, "motor vehicle" has the meaning provided in RCW 46.04.320, but does not include farm tractors or farm vehicles as defined in RCW 46.04.180 and 46.04.181, off-road and nonhighway

vehicles as defined in RCW 46.09.020, and snowmobiles as defined in RCW 46.10.010.

(5) The taxes imposed under this chapter shall apply to successive retail sales of the same property.

~~((4))~~ (6) The rates provided in this section apply to taxes imposed under chapter 82.12 RCW as provided in RCW 82.12.020.

Sec. 302. RCW 82.12.020 and 2003 c 5 (EHB 1977) s 2 are each amended to read as follows:

(1) There is hereby levied and there shall be collected from every person in this state a tax or excise for the privilege of using within this state as a consumer:

(a) Any article of tangible personal property purchased at retail, or acquired by lease, gift, repossession, or bailment, or extracted or produced or manufactured by the person so using the same, or otherwise furnished to a person engaged in any business taxable under RCW 82.04.280 (2) or (7); or (b) any canned software, regardless of the method of delivery, but excluding canned software that is either provided free of charge or is provided for temporary use in viewing information, or both.

(2) This tax shall apply to the use of every service defined as a retail sale in RCW 82.04.050 (2)(a) or (3)(a) and the use of every article of tangible personal property, including property acquired at a casual or isolated sale, and including byproducts used by the manufacturer thereof, except as hereinafter provided, irrespective of whether the article or similar articles are manufactured or are available for purchase within this state.

(3) The provisions of this chapter do not apply in respect to the use of any article of tangible personal property or service taxable under RCW 82.04.050(2)(a) or (3)(a) purchased at retail or acquired by lease, gift, or bailment if the sale to, or the use by, the present user or his bailor or donor has already been subjected to the tax under chapter 82.08 RCW or this chapter and the tax has been paid by the present user or by his bailor or donor.

(4) Except as provided in this section, payment by one purchaser or user of tangible personal property or service of the tax imposed by chapter 82.08 or 82.12 RCW shall not have the effect of exempting any other purchaser or user of the same property or service from the taxes imposed by such chapters. If the sale to, or the use by, the present user or his or her bailor or donor has already been subjected to the tax under chapter 82.08 RCW or this chapter and the tax has been paid by the present user or by his or her bailor or donor; or in respect to the use of property acquired by bailment and the tax has once been paid based on reasonable rental as determined by RCW 82.12.060 measured by the value of the article at time of first use multiplied by the tax rate imposed by chapter 82.08 RCW or this chapter as of the time of first use; or in respect to the use of any article of tangible personal property acquired by bailment, if the property was acquired by a previous bailee from the same bailor for use in the same general activity and the original bailment was prior to June 9, 1961, the tax imposed by this chapter does not apply.

(5) The tax shall be levied and collected in an amount equal to the value of the article used or value of the service used by the taxpayer multiplied by the rates in effect for the retail sales tax under RCW 82.08.020.

Sec. 303. RCW 82.12.045 and 1996 c 149 s 19 are each amended to read as follows:

(1) In the collection of the use tax on motor vehicles, the department of revenue may designate the county auditors of the several counties of the state as its collecting agents. Upon such designation, it shall be the duty of each county auditor to collect the tax at the time an applicant applies for the registration of, and transfer of title to, the motor vehicle, except in the following instances:

(a) Where the applicant exhibits a dealer's report of sale showing that the retail sales tax has been collected by the dealer;

(b) Where the application is for the renewal of registration;

(c) Where the applicant presents a written statement signed by the department of revenue, or its duly authorized agent showing that no use tax is legally due; or

(d) Where the applicant presents satisfactory evidence showing that the retail sales tax or the use tax has been paid by ~~((him))~~ the applicant on the vehicle in question.

(2) The term "motor vehicle," as used in this section means and includes all motor vehicles, trailers and semitrailers used, or of a 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, facilities for human habitation, and vehicles carrying exempt licenses.

(3) It shall be the duty of every applicant for registration and transfer of certificate of title who is subject to payment of tax under this section to declare upon ~~((his))~~ the application the value of the vehicle for which application is made, which shall consist of the consideration paid or contracted to be paid therefor.

(4) Each county auditor who acts as agent of the department of revenue shall at the time of remitting license fee receipts on motor vehicles subject to the provisions of this section pay over and account to the state treasurer for all use tax revenue collected under this section, after first deducting as ~~((his))~~ a collection fee the sum of two dollars for each motor vehicle upon which the tax has been collected. All revenue received by the state treasurer under this section shall be credited to the general fund. The auditor's collection fee shall be deposited in the county current expense fund. A duplicate of the county auditor's transmittal report to the state treasurer shall be forwarded forthwith to the department of revenue.

(5) Any applicant who has paid use tax to a county auditor under this section may apply to the department of revenue for refund thereof if he or she has reason to believe that such tax was not legally due and owing. No refund shall be allowed unless application therefor is received by the department of revenue within the statutory period for assessment of taxes, penalties, or interest prescribed by RCW 82.32.050(3). Upon receipt of an application for refund the department of revenue shall consider the same and issue its order either granting or denying it and if refund is denied the taxpayer shall have the right of appeal as provided in RCW 82.32.170, 82.32.180 and 82.32.190.

(6) The provisions of this section shall be construed as cumulative of other methods prescribed in chapters 82.04 to 82.32 RCW, inclusive, for the collection of the tax imposed by this chapter. The department of revenue shall have power

to promulgate such rules as may be necessary to administer the provisions of this section. Any duties required by this section to be performed by the county auditor may be performed by the director of licensing but no collection fee shall be deductible by said director in remitting use tax revenue to the state treasurer.

(7) The use tax revenue collected on the rate provided in RCW 82.08.020(3) shall be deposited in the multimodal transportation account under RCW 47.66.070.

Sec. 304. RCW 82.08.064 and 2000 c 104 s 3 are each amended to read as follows:

(1) A sales and use tax rate change under this chapter or chapter 82.12 RCW shall be imposed ~~((H))~~ (a) no sooner than seventy-five days after its enactment into law and ~~((2))~~ (b) only on the first day of January, April, July, or October.

(2) Subsection (1) of this section does not apply to the tax rate change in section 301 of this act.

PART IV - MOTOR AND SPECIAL FUEL TAXES

Sec. 401. RCW 82.36.025 and 1999 c 269 s 16 and 1999 c 94 s 29 are each reenacted and amended to read as follows:

(1) A motor vehicle fuel tax rate of twenty-three cents per gallon ~~((shall apply))~~ applies to the sale, distribution, or use of motor vehicle fuel.

(2) Beginning July 1, 2003, an additional and cumulative motor fuel tax rate of five cents per gallon applies to the sale, distribution, or use of motor vehicle fuel. This subsection (2) expires when the bonds issued for transportation 2003 projects are retired.

Sec. 402. RCW 82.38.030 and 2002 c 183 s 2 are each amended to read as follows:

(1) There is hereby levied and imposed upon special fuel users a tax at the rate ~~((computed in the manner provided in RCW 82.36.025 on each))~~ of twenty-three cents per gallon of special fuel, or each one hundred cubic feet of compressed natural gas, measured at standard pressure and temperature.

(2) ~~((The tax))~~ Beginning July 1, 2003, an additional and cumulative tax rate of five cents per gallon of special fuel, or each one hundred cubic feet of compressed natural gas, measured at standard pressure and temperature shall be imposed on special fuel users. This subsection (2) expires when the bonds issued for transportation 2003 projects are retired.

(3) Taxes are imposed ~~((by subsection (1) of this section is imposed))~~ when:

(a) Special fuel is removed in this state from a terminal if the special fuel is removed at the rack unless the removal is to a licensed exporter for direct delivery to a destination outside of the state, or the removal is to a special fuel distributor for direct delivery to an international fuel tax agreement licensee under RCW 82.38.320;

(b) Special fuel is removed in this state from a refinery if either of the following applies:

(i) The removal is by bulk transfer and the refiner or the owner of the special fuel immediately before the removal is not a licensee; or

(ii) The removal is at the refinery rack unless the removal is to a licensed exporter for direct delivery to a destination outside of the state, or the removal is

to a special fuel distributor for direct delivery to an international fuel tax agreement licensee under RCW 82.38.320;

(c) Special fuel enters into this state for sale, consumption, use, or storage if either of the following applies:

(i) The entry is by bulk transfer and the importer is not a licensee; or

(ii) The entry is not by bulk transfer;

(d) Special fuel is sold or removed in this state to an unlicensed entity unless there was a prior taxable removal, entry, or sale of the special fuel;

(e) Blended special fuel is removed or sold in this state by the blender of the fuel. The number of gallons of blended special fuel subject to tax is the difference between the total number of gallons of blended special fuel removed or sold and the number of gallons of previously taxed special fuel used to produce the blended special fuel;

(f) Dyed special fuel is used on a highway, as authorized by the internal revenue code, unless the use is exempt from the special fuel tax;

(g) Dyed special fuel is held for sale, sold, used, or is intended to be used in violation of this chapter;

(h) Special fuel purchased by an international fuel tax agreement licensee under RCW 82.38.320 is used on a highway; and

(i) Special fuel is sold by a licensed special fuel supplier to a special fuel distributor, special fuel importer, or special fuel blender and the special fuel is not removed from the bulk transfer-terminal system.

~~((3))~~ (4) The tax imposed by this chapter, if required to be collected by the licensee, is held in trust by the licensee until paid to the department, and a licensee who appropriates or converts the tax collected to his or her own use or to any use other than the payment of the tax to the extent that the money required to be collected is not available for payment on the due date as prescribed in this chapter is guilty of a felony, or gross misdemeanor in accordance with the theft and anticipatory provisions of Title 9A RCW. A person, partnership, corporation, or corporate officer who fails to collect the tax imposed by this section, or who has collected the tax and fails to pay it to the department in the manner prescribed by this chapter, is personally liable to the state for the amount of the tax.

Sec. 403. RCW 46.68.090 and 1999 c 269 s 2 and 1999 c 94 s 6 are each reenacted and 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 purposes enumerated in (a) and (b) of this subsection. The remaining net tax amount shall be distributed monthly by the state treasurer in ~~((the proportions set forth in (c) through (f)))~~ accordance with subsections (2), (3), and (4) of this ((subsection)) section.

(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;

(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~~((;))~~.

~~((e))~~ (2) All of the remaining net tax amount collected under RCW 82.36.025(1) and 82.38.030(1) shall be distributed as set forth in (a) through (j) of this section.

(a) For distribution to the motor vehicle fund an amount equal to 44.387 percent to be expended for highway purposes of the state as defined in RCW 46.68.130;

~~((d))~~ (b) For distribution to the special category C account, hereby created in the motor vehicle fund, an amount equal to 3.2609 percent to be expended for special category C projects. Special category C projects are category C projects 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:

(i) Accident experience;

(ii) Fatal accident experience;

(iii) Capacity to move people and goods safely and at reasonable speeds without undue congestion; and

(iv) 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 ~~((1)(d))~~ (2)(b);

~~((e))~~ (c) For distribution to the Puget Sound ferry operations account in the motor vehicle fund an amount equal to 2.3283 percent;

~~((f))~~ (d) For distribution to the Puget Sound capital construction account in the motor vehicle fund an amount equal to 2.3726 percent;

~~((g))~~ (e) For distribution to the urban arterial trust account in the motor vehicle fund an amount equal to 7.5597 percent;

~~((h))~~ (f) For distribution to the transportation improvement account in the motor vehicle fund an amount equal to 5.6739 percent and expended in accordance with RCW 47.26.086;

~~((i))~~ (g) For distribution to the cities and towns from the motor vehicle fund an amount equal to 10.6961 percent in accordance with RCW 46.68.110;

~~((j))~~ (h) For distribution to the counties from the motor vehicle fund an amount equal to 19.2287 percent: (i) Out of which there shall be distributed from time to time, as directed by the department of transportation, those sums as may be necessary to carry out the provisions of RCW 47.56.725; and (ii) less any amounts appropriated to the county road administration board to implement the provisions of RCW 47.56.725(4), with the balance of such county share to be distributed monthly as the same accrues for distribution in accordance with RCW 46.68.120;

~~((k))~~ (i) For distribution to the county arterial preservation account, hereby created in the motor vehicle fund an amount equal to 1.9565 percent. 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;

~~((H))~~ (j) For distribution to the rural arterial trust account in the motor vehicle fund an amount equal to 2.5363 percent and expended in accordance with RCW 36.79.020.

~~((Z))~~ (3) One hundred percent of the net tax amount collected under RCW 82.36.025(2) and 82.38.030(2) shall be distributed to the transportation 2003 account (nickel account).

(4) Nothing in this section or in RCW 46.68.130 may be construed so as to violate any terms or conditions contained in any highway construction bond issues now or hereafter authorized by statute and whose payment is by such statute pledged to be paid from any excise taxes on motor vehicle fuel and special fuels.

Sec. 404. RCW 46.68.110 and 1999 c 269 s 3 and 1999 c 94 s 9 are each reenacted and amended to read as follows:

Funds credited to the incorporated cities and towns of the state as set forth in RCW 46.68.090~~((+)(i))~~ (2)(g) shall be subject to deduction and distribution as follows:

(1) One and one-half percent of such sums distributed under RCW 46.68.090(2)(g) shall be deducted monthly as such sums are credited and set aside for the use of the department of transportation for the supervision of work and expenditures of such incorporated cities and towns on the city and town streets thereof, including the supervision and administration of federal-aid programs for which the department of transportation has responsibility: PROVIDED, That any moneys so retained and not expended shall be credited in the succeeding biennium to the incorporated cities and towns in proportion to deductions herein made;

(2) Thirty-three one-hundredths of one percent of such funds distributed under RCW 46.68.090(2)(g) shall be deducted monthly, as such funds accrue, and set aside for the use of the department of transportation for the purpose of funding the cities' share of the costs of highway jurisdiction studies and other studies. Any funds so retained and not expended shall be credited in the succeeding biennium to the cities in proportion to the deductions made;

(3) One percent of such funds distributed under RCW 46.68.090(2)(g) shall be deducted monthly, as such funds accrue, to be deposited in the urban arterial trust account, to implement the city hardship assistance program, as provided in RCW 47.26.164. However, any moneys so retained and not required to carry out the program as of July 1st of each odd-numbered year thereafter, shall be provided within sixty days to the treasurer and distributed in the manner prescribed in subsection (5) of this section;

(4) After making the deductions under subsections (1) through (3) of this section and RCW 35.76.050, 31.86 percent of the fuel tax distributed to the cities and towns in RCW 46.68.090~~((+)(i))~~ (2)(g) shall be allocated to the incorporated cities and towns in the manner set forth in subsection (5) of this section and subject to deductions in subsections (1), (2), and (3) of this section, subject to RCW 35.76.050, to be used exclusively for: The construction, improvement, chip sealing, seal-coating, and repair for arterial highways and city streets as those terms are defined in RCW 46.04.030 and 46.04.120; the maintenance of arterial highways and city streets for those cities with a population of less than fifteen thousand; or the payment of any municipal

indebtedness which may be incurred in the construction, improvement, chip sealing, seal-coating, and repair of arterial highways and city streets; and

(5) The balance remaining to the credit of incorporated cities and towns after such deduction shall be apportioned monthly as such funds accrue among the several cities and towns within the state ratably on the basis of the population last determined by the office of financial management.

Sec. 405. RCW 82.38.035 and 2001 c 270 s 7 are each amended to read as follows:

(1) A licensed supplier shall remit tax on special fuel to the department as provided in RCW 82.38.030(~~((2)(a))~~) (3)(a). On a two-party exchange, or buy-sell agreement between two licensed suppliers, the receiving exchange partner or buyer shall remit the tax.

(2) A refiner shall remit tax to the department on special fuel removed from a refinery as provided in RCW 82.38.030(~~((2)(b))~~) (3)(b).

(3) An importer shall remit tax to the department on special fuel imported into this state as provided in RCW 82.38.030(~~((2)(e))~~) (3)(c).

(4) A blender shall remit tax to the department on the removal or sale of blended special fuel as provided in RCW 82.38.030(~~((2)(e))~~) (3)(e).

(5) A dyed special fuel user shall remit tax to the department on the use of dyed special fuel as provided in RCW 82.38.030(~~((2)(f))~~) (3)(f).

Sec. 406. RCW 82.38.047 and 1998 c 176 s 55 are each amended to read as follows:

A terminal operator is jointly and severally liable for remitting the tax imposed under RCW 82.38.030(~~((4))~~) if, in connection with the removal of special fuel that is not dyed or marked in accordance with internal revenue service requirements, the terminal operator provides a person with a bill of lading, shipping paper, or similar document indicating that the special fuel is dyed or marked in accordance with internal revenue service requirements.

Sec. 407. RCW 46.09.170 and 1995 c 166 s 9 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))~~ a tax rate ~~((in effect January 1, 1990))~~ of: (a) Nineteen cents per gallon of motor vehicle fuel from July 1, 2003, through June 30, 2005; (b) twenty cents per gallon of motor vehicle fuel from July 1, 2005, through June 30, 2007; (c) twenty-one cents per gallon of motor vehicle fuel from July 1, 2007, through June 30, 2009; (d) twenty-two cents per gallon of motor vehicle fuel from July 1, 2009, through June 30, 2011; and (e) twenty-three cents per gallon of motor vehicle fuel beginning July 1, 2011, and thereafter, 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))~~ (i) 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:

~~((+))~~ (A) Not more than five percent may be expended for information programs under this chapter;

~~((+))~~ (B) Not less than ten percent and not more than fifty percent may be expended for ORV recreation facilities;

~~((+))~~ (C) Not more than twenty-five percent may be expended for maintenance of nonhighway roads;

~~((+))~~ (D) Not more than fifty percent may be expended for nonhighway road recreation facilities;

~~((+))~~ (E) 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 ~~((+))~~ (e)(iv)(A) of this subsection;

~~((+))~~ (ii) Three and one-half percent shall be credited to the ORV and nonhighway vehicle account and administered by the department of fish and wildlife solely for the acquisition, planning, development, maintenance, and management of nonhighway roads and recreation facilities;

~~((+))~~ (iii) 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

~~((+))~~ (iv) 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 nonhighway and off-road vehicle activities program 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:

~~((+))~~ (A) Not more than twenty percent may be expended for ORV education, information, and law enforcement programs under this chapter;

~~((+))~~ (B) 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;

~~((+))~~ (C) 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. 408. RCW 46.10.170 and 1994 c 262 s 4 are each amended to read as follows:

From time to time, but at least once each four years, the department shall determine the amount of moneys paid to it as motor vehicle fuel tax that is tax on snowmobile fuel. Such determination shall use one hundred thirty-five gallons as the average yearly fuel usage per snowmobile, the number of registered snowmobiles during the calendar year under determination, and ~~((the))~~ a fuel tax rate ~~((in effect January 1, 1990))~~ of: (1) Nineteen cents per gallon of motor vehicle fuel from July 1, 2003, through June 30, 2005; (2) twenty cents per gallon of motor vehicle fuel from July 1, 2005, through June 30, 2007; (3) twenty-one cents per gallon of motor vehicle fuel from July 1, 2007, through

June 30, 2009; (4) twenty-two cents per gallon of motor vehicle fuel from July 1, 2009, through June 30, 2011; and (5) twenty-three cents per gallon of motor vehicle fuel beginning July 1, 2011, and thereafter.

Sec. 409. RCW 79A.25.070 and 2000 c 11 s 73 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. 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 79A.25.030, shall request the state treasurer to transfer monthly from the marine fuel tax refund account an amount equal to the proportion of the moneys in the account representing ~~((the)) a~~ motor vehicle fuel tax rate ~~((under RCW 82.36.025 in effect on January 1, 1990)) of:~~ (1) Nineteen cents per gallon of motor vehicle fuel from July 1, 2003, through June 30, 2005; (2) twenty cents per gallon of motor vehicle fuel from July 1, 2005, through June 30, 2007; (3) twenty-one cents per gallon of motor vehicle fuel from July 1, 2007, through June 30, 2009; (4) twenty-two cents per gallon of motor vehicle fuel from July 1, 2009, through June 30, 2011; and (5) twenty-three cents per gallon of motor vehicle fuel beginning July 1, 2011, and thereafter, to the recreation resource account and the remainder to the motor vehicle fund.

PART V - OPTIONAL LICENSE PLATE FEE

Sec. 501. RCW 46.16.233 and 2000 c 37 s 1 are each amended to read as follows:

(1) Except for those license plates issued under RCW 46.16.305(1) before January 1, 1987, under RCW 46.16.305(3), and to commercial vehicles with a gross weight in excess of twenty-six thousand pounds, effective with vehicle registrations due or to become due on January 1, 2001, all vehicle license plates must be issued on a standard background, as designated by the department. Additionally, to ensure maximum legibility and reflectivity, the department shall periodically provide for the replacement of license plates, except for commercial vehicles with a gross weight in excess of twenty-six thousand pounds. Frequency of replacement shall be established in accordance with empirical studies documenting the longevity of the reflective materials used to make license plates.

(2) By November 1, 2003, in providing for the periodic replacement of license plates, the department shall offer to vehicle owners the option of retaining their current license plate numbers. The department shall charge a retention fee of twenty dollars if this option is exercised. Revenue generated from the retention fee must be deposited into the multimodal transportation account.

NEW SECTION. Sec. 502. A new section is added to chapter 46.16 RCW to read as follows:

The department shall offer license plate design services to organizations that are sponsoring a new special license plate series or are seeking to redesign the appearance of an existing special license plate series that they sponsored. In providing this service, the department must work with the requesting

organization in determining the specific qualities of the new plate design and must provide full design services to the organization. The department shall collect from the requesting organization a fee of one thousand five hundred dollars for providing license plate design services. This fee includes one original license plate design and up to five additional renditions of the original design. If the organization requests the department to provide further renditions, in addition to the five renditions provided for under the original fee, the department shall collect an additional fee of five hundred dollars per rendition. All revenue collected under this section must be deposited into the multimodal transportation account.

PART VI - ACCOUNT CREATION

NEW SECTION. **Sec. 601.** A new section is added to chapter 46.68 RCW to read as follows:

(1) The transportation 2003 account (nickel account) is hereby created in the motor vehicle fund. Money in the account may be spent only after appropriation. Expenditures from the account must be used only for projects or improvements identified as transportation 2003 projects or improvements in the omnibus transportation budget and to pay the principal and interest on the bonds authorized for transportation 2003 projects or improvements. Upon completion of the projects or improvements identified as transportation 2003 projects or improvements, moneys deposited in this account must only be used to pay the principal and interest on the bonds authorized for transportation 2003 projects or improvements, and any funds in the account in excess of the amount necessary to make the principal and interest payments may be used for maintenance on the completed projects or improvements.

(2) The "nickel account" means the transportation 2003 account.

Sec. 602. RCW 43.84.092 and 2002 c 242 s 2, 2002 c 114 s 24, and 2002 c 56 s 402 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and

disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the common school construction fund, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of retirement systems expense account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the emergency reserve fund, the federal forest revolving account, the health services account, the public health services account, the health system capacity account, the personal health services account, the state higher education construction account, the higher education construction account, the highway infrastructure account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the Puyallup tribal settlement account, the regional transportation investment district account, the resource management cost account, the site closure account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation infrastructure account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer fire fighters' and reserve officers' relief and pension principal fund, the volunteer fire fighters' and reserve officers' administrative fund, the Washington fruit express account, the Washington judicial retirement system account, the

Washington law enforcement officers' and fire fighters' system plan 1 retirement account, the Washington law enforcement officers' and fire fighters' system plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (4)(a) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(b) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the county arterial preservation account, the department of licensing services account, the essential rail assistance account, the ferry bond retirement fund, the grade crossing protective fund, the high capacity transportation account, the highway bond retirement fund, the highway safety account, the motor vehicle fund, the motorcycle safety education account, the pilotage account, the public transportation systems account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the recreational vehicle account, the rural arterial trust account, the safety and education account, the special category C account, the state patrol highway account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, and the urban arterial trust account.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

PART VII - MISCELLANEOUS

NEW SECTION. Sec. 701. Part headings used in this act are not any part of the law.

NEW SECTION. Sec. 702. 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. 703. Sections 301 through 602 of this act take effect July 1, 2003, and sections 201 and 202 of this act take effect August 1, 2003.

NEW SECTION. Sec. 704. Section 201 of this act is effective with registrations that are due or will become due August 1, 2003, and thereafter.

**NEW SECTION. Sec. 705. Part V of this act is null and void if House Bill No. 2065 becomes law by June 30, 2003.*

**Sec. 705 was vetoed. See message at end of chapter.*

Passed by the House April 26, 2003.

Passed by the Senate April 26, 2003.

Approved by the Governor May 19, 2003, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 19, 2003.

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

"I am returning herewith, without my approval as to section 705, Engrossed Substitute House Bill No. 2231 entitled:

"AN ACT Relating to transportation and financing;"

Engrossed Substitute House Bill No. 2231 is the transportation revenue bill that will support the new transportation projects and programs appropriated in Engrossed Substitute House Bill No. 1163, the 2003-05 transportation budget.

In approving and signing this bill, with the exception of section 705 as noted below, I am acting on the understanding that the Washington Constitution exempts this bill from a referendum petition, and that the legislature in enacting the bill did not intend that it be subject to referendum. The legislature could not have considered the bill subject to referendum because it declared most sections of the act effective on July 1, 2003. Any other view would be inconsistent with the Washington Constitution, which provides that no bill subject to referendum shall take effect until ninety days after adjournment of the session during which it was enacted.

In addition, the bill contains a legislative finding that the state's transportation system is in critical need of repair, restoration, and enhancement, and that the revenues generated by this act are necessary for state transportation projects and services. Although an initiative can propose new legislation on almost any subject, under the Washington Constitution a referendum petition cannot suspend the operation of a law necessary for the immediate preservation of the public peace, health or safety, or the support of state government and its existing public institutions.

Part V of this bill provides that for a fee of twenty dollars, vehicle owners may retain their current license plate number upon replacement. Part V also sets fees for the Department of Licensing design of special license plates. The fees generated by Part V are to be deposited into the multimodal transportation account. Section 705 of this bill would have provided that these provisions are null and void if House Bill No. 2065, an act relating to license plate technology, becomes law by June 30, 2003. Given that I prefer the distribution of the fee revenues in Part V of this bill to that prescribed by House Bill No. 2065, I have vetoed section 705.

For this reason, I have vetoed section 705 of Engrossed Substitute House Bill No. 2231.

With the exception of section 705, Engrossed Substitute House Bill No. 2231 is approved."

CHAPTER 362

[Substitute Senate Bill 5748]

TRANSPORTATION PERFORMANCE AUDITS

AN ACT Relating to transportation-related performance audits; amending RCW 44.28.088; adding a new section to chapter 44.28 RCW; adding a new section to chapter 44.40 RCW; adding a new chapter to Title 44 RCW; creating new sections; and declaring an emergency.

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

NEW SECTION. Sec. 1. INTENT. It is essential that the legislature improve the accountability and efficiency of transportation-related agencies and measure transportation system performance against benchmarks established in chapter 5, Laws of 2002. Taxpayers must know that their tax dollars are being well spent to deliver critically needed transportation projects and services. To accomplish this, the transportation performance audit board is created and a

system of transportation functional and performance audits is established to provide oversight and accountability of transportation-related agencies.

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

(1) "Economy and efficiency audit" has the meaning contained in chapter 44.28 RCW.

(2) "Joint legislative audit and review committee" means the agency created in chapter 44.28 RCW, or its statutory successor.

(3) "Legislative auditor" has the meaning contained in chapter 44.28 RCW.

(4) "Legislative transportation committee" means the agency created in chapter 44.40 RCW, or its statutory successor.

(5) "Performance audit" has the meaning contained in chapter 44.28 RCW.

(6) "Performance review" means an outside evaluation of how a state agency uses its performance measures to assess the outcomes of its legislatively authorized activities.

(7) "Program audit" has the meaning contained in chapter 44.28 RCW.

(8) "Transportation performance audit board" or "board" means the board created in section 3 of this act.

(9) "Transportation-related agencies" means any state agency, board, or commission that receives funding primarily for transportation-related purposes. At a minimum, the department of transportation, the Washington state patrol, the department of licensing, the transportation improvement board or its successor entity, the county road administration board or its successor entity, and the traffic safety commission are considered transportation-related agencies.

NEW SECTION. Sec. 3. BOARD CREATED. (1) The transportation performance audit board is created.

(2) The board will consist of four legislative members, five citizen members with transportation-related expertise, one ex officio member, and one at large member. The legislative auditor is the ex officio member. The majority and minority leaders of the house and senate transportation committees are the legislative members. The governor shall appoint the at large member to serve for a term of four years. The citizen members must be nominated by professional associations chosen by the board's legislative members and appointed by the governor for terms of four years, except that at least half the initial appointments will be for terms of two years. The citizen members may not be currently, or within one year, employed by the Washington state department of transportation. The citizen members will consist of:

(a) One member with expertise in construction project planning, including permitting and assuring regulatory compliance;

(b) One member with expertise in construction means and methods and construction management, crafting and implementing environmental mitigation plans, and administration;

(c) One member with expertise in construction engineering services, including construction management, materials testing, materials documentation, contractor payments, inspection, surveying, and project oversight;

(d) One member with expertise in project management, including design estimating, contract packaging, and procurement; and

(e) One member with expertise in transportation planning and congestion management.

(3) The governor may not remove members from the board before the expiration of their terms unless for cause based upon a determination of incapacity, incompetence, neglect of duty, or malfeasance in office by the Thurston county superior court, upon petition and show cause proceedings brought for that purpose in that court and directed to the board member in question.

(4) No member may be appointed for more than three consecutive terms.

NEW SECTION. Sec. 4. PROCEDURES, COMPENSATION, SUPPORT.

(1) The board shall meet periodically. It may adopt its own rules and may establish its own procedures. It shall act collectively in harmony with recorded resolutions or motions adopted by a majority vote of the members.

(2) Each member of the transportation performance audit board will be compensated from the general appropriation for the legislative transportation committee in accordance with RCW 43.03.250 and reimbursed for actual necessary traveling and other expenses in going to, attending, and returning from meetings of the board or that are incurred in the discharge of duties requested by the chair. However, in no event may a board member be compensated in any year for more than one hundred twenty days, except the chair may be compensated for not more than one hundred fifty days. Service on the board does not qualify as a service credit for the purposes of a public retirement system.

(3) The transportation performance audit board shall keep proper records and is subject to audit by the state auditor or other auditing entities.

(4) Staff support to the transportation performance audit board must be provided by the legislative transportation committee, which shall provide professional support for the duties, functions, responsibilities, and activities of the board, including but not limited to information technology systems; data collection, processing, analysis, and reporting; project management; and office space, equipment, and secretarial support. The legislative evaluation and accountability program will provide data and information technology support consistent with the support currently supplied to existing legislative committees.

NEW SECTION. Sec. 5. REVIEWS OF TRANSPORTATION-RELATED AGENCIES. (1) The transportation performance audit board may review the performance and outcome measures of transportation-related agencies. The purpose of these reviews is to ensure that the legislature has the means to adequately and accurately assess the performance and outcomes of those agencies and departments. Where two or more agencies have shared responsibility for functions or priorities of government, these reviews can also determine whether effective interagency cooperation and collaboration occurs in areas such as program coordination, administrative structures, information systems, and administration of grants and loans.

(2) In conducting these reviews, the transportation performance audit board may work in consultation with the legislative transportation committee, the joint legislative audit and review committee, the office of financial management, and other state agencies.

NEW SECTION. Sec. 6. REVIEW METHODOLOGY. The performance and outcome measures and benchmarks of each agency or department may be reviewed at the discretion of the transportation performance audit board. In setting the schedule and the extent of performance reviews, the board shall consider the timing and results of other recent state, federal, and independent reviews and audits, the seriousness of past findings, any inadequate remedial action taken by an agency or department, whether an agency or department lacks performance and outcome measures, and the desirability to include a diverse range of agencies or programs each year.

NEW SECTION. Sec. 7. SCOPE OF REVIEWS. The reviews may include, but are not limited to:

(1) A determination of whether the performance and outcome measures are consistent with legislative mandates, strategic plans, mission statements, and goals and objectives, and whether the legislature has established clear mandates, strategic plans, mission statements, and goals and objectives that lend themselves to performance and outcome measurement;

(2) An examination of how agency management uses the measures to manage resources in an efficient and effective manner;

(3) An assessment of how performance benchmarks are established for the purpose of assessing overall performance compared to external standards and benchmarks;

(4) An examination of how an analysis of the measurement data is used to make planning and operational improvements;

(5) A determination of how performance and outcome measures are used in the budget planning, development, and allotment processes and the extent to which the agency is in compliance with its responsibilities under RCW 43.88.090;

(6) A review of how performance data are reported to and used by the legislature both in policy development and resource allocation;

(7) An assessment of whether the performance measure data are reliable and collected in a uniform and timely manner;

(8) A determination whether targeted funding investments and established priorities of government actually produce the intended and expected services and benefits; and

(9) Recommendations as necessary or appropriate.

**NEW SECTION. Sec. 8. PERFORMANCE AUDITS—
DETERMINATION OF NECESSITY.** After reviewing the performance and outcome measures and benchmarks of an agency or department, or at any time it so determines, the transportation performance audit board shall recommend to the executive committee of the legislative transportation committee whether a full performance or functional audit of the agency or department, or a specific program within the agency or department, is appropriate. Upon the request of the legislative transportation committee or its executive committee, the joint legislative audit and review committee shall add the full performance or functional audit to its biennial performance audit work plan. If the request duplicates or overlaps audits already in the work plan, or was performed under the previous biennial work plan, the executive committees of the legislative

transportation committee and the joint legislative audit and review committee shall meet to discuss and resolve the duplication or overlap.

NEW SECTION. Sec. 9. PROFESSIONAL EXPERTS. (1) To the greatest extent possible, or when requested by the executive committee of the legislative transportation committee, the legislative auditor shall contract with and consult with private independent professional and technical experts to optimize the independence of the reviews and performance audits. In determining the need to contract with private experts, the legislative auditor shall consider the degree of difficulty of the review or audit, the relative cost of contracting for expertise, and the need to maintain auditor independence from the subject agency or program.

(2) After consultation with the executive committee of the legislative transportation committee on the appropriateness of costs, the legislative transportation committee shall reimburse the joint legislative audit and review committee or the legislative auditor for the costs of carrying out any requested performance audits, including the cost of contracts and consultant services.

(3) The executive committee of the legislative transportation committee must review and approve the methodology for performance audits recommended by the transportation performance audit board.

NEW SECTION. Sec. 10. PRESENTATION AND PUBLICATION OF PERFORMANCE AUDITS. Completed performance audits must be presented to the transportation performance audit board and the legislative transportation committee. Published performance audits must be made available to the public through the legislative transportation committee and the joint legislative audit and review committee's web site and through customary public communications. Final reports must also be transmitted to the appropriate policy and fiscal standing committees of the legislature.

NEW SECTION. Sec. 11. SCOPE OF PERFORMANCE AUDIT. The legislative auditor shall determine in writing the scope of any performance audit requested by the legislative transportation committee or its executive committee, subject to the review and approval of the final scope of the audit by the transportation performance audit board, and the legislative transportation committee or its executive committee. In doing so, the legislative auditor, the transportation performance audit board, and the legislative transportation committee or its executive committee shall consider inclusion of the following elements in the scope of the audit:

(1) Identification of potential cost savings in the agency, its programs, and its services;

(2) Identification and recognition of best practices;

(3) Identification of funding to the agency, to programs, and to services that can be eliminated or reduced;

(4) Identification of programs and services that can be eliminated, reduced, or transferred to the private sector;

(5) Analysis of gaps and overlaps in programs and services and recommendations for improving, dropping, blending, or separating functions to correct gaps or overlaps;

(6) Analysis and recommendations for pooling information technology systems;

(7) Analysis of the roles and functions of the agency, its programs, and its services and their compliance with statutory authority and recommendations for eliminating or changing those roles and functions and ensuring compliance with statutory authority;

(8) Recommendations for eliminating or changing statutes, rules, and policy directives as may be necessary to ensure that the agency carry out reasonably and properly those functions expressly vested in the department by statute; and

(9) Verification of the reliability and validity of department performance data, self-assessments, and performance measurement systems as required under RCW 43.88.090.

NEW SECTION. Sec. 12. CONTENTS OF AUDIT REPORT. When conducting a full performance audit of an agency or department, or a specific program within an agency or department, or multiple agencies, in accordance with section 11 of this act, the legislative auditor shall solicit input from appropriate industry representatives or experts. The audit report must make recommendations regarding the continuation, abolition, consolidation, or reorganization of each affected agency, department, or program. The audit report must identify opportunities to develop government partnerships, and eliminate program redundancies that will result in increased quality, effectiveness, and efficiency of state agencies.

NEW SECTION. Sec. 13. A new section is added to chapter 44.28 RCW to read as follows:

In addition to any other audits developed or included in the audit work plan under this chapter, the legislative auditor shall manage audits directed by the executive committee of the legislative transportation committee under section 8 of this act. If directed to perform or contract for audit services under section 8 of this act, the legislative auditor or joint legislative audit and review committee will receive from the legislative transportation committee an interagency reimbursement equal to the cost of the contract or audit services.

Sec. 14. RCW 44.28.088 and 1996 c 288 s 13 are each amended to read as follows:

(1) When the legislative auditor has completed a performance audit authorized in the performance audit work plan, the legislative auditor shall transmit the preliminary performance audit report to the affected state agency or local government and the office of financial management for comment. The agency or local government and the office of financial management shall provide any response to the legislative auditor within thirty days after receipt of the preliminary performance audit report unless a different time period is approved by the joint committee. The legislative auditor shall incorporate the response of the agency or local government and the office of financial management into the final performance audit report.

(2) Except as provided in subsection (3) of this section, before releasing the results of a performance audit to the legislature or the public, the legislative auditor shall submit the preliminary performance audit report to the joint committee for its review, comments, and final recommendations. Any comments by the joint committee must be included as a separate addendum to the final performance audit report. Upon consideration and incorporation of the review, comments, and recommendations of the joint committee, the legislative

auditor shall transmit the final performance audit report to the affected agency or local government, the director of financial management, the leadership of the senate and the house of representatives, and the appropriate standing committees of the house of representatives and the senate and shall publish the results and make the report available to the public. For purposes of this section, "leadership of the senate and the house of representatives" means the speaker of the house, the majority leaders of the senate and the house of representatives, the minority leaders of the senate and the house of representatives, the caucus chairs of both major political parties of the senate and the house of representatives, and the floor leaders of both major political parties of the senate and the house of representatives.

(3) Before releasing the results of a performance audit originally requested by the executive committee of the legislative transportation committee to the legislature or the public, the legislative auditor shall submit the preliminary performance audit report to the executive committee of the joint committee and the executive committee of the legislative transportation committee for review and comments solely on the management of the audit. Any comments by the executive committee of the joint committee and executive committee of the legislative transportation committee must be included as a separate addendum to the final performance audit report. Upon consideration and incorporation of the review and comments of the executive committee of the joint committee and executive committee of the legislative transportation committee, the legislative auditor shall transmit the final performance audit report to the affected agency or local government, the director of financial management, the leadership of the senate and the house of representatives, and the appropriate standing committees of the house of representatives and the senate and shall publish the results and make the report available to the public.

NEW SECTION. Sec. 15. The transportation performance audit board shall take steps to ensure that the department of transportation is the first agency subject to the performance review and audit process established in this act.

NEW SECTION. Sec. 16. A new section is added to chapter 44.40 RCW to read as follows:

The executive committee of the legislative transportation committee or its successor may work with the joint legislative audit and review committee to review and audit transportation-related agencies, as directed in chapter 44.--RCW (sections 1 through 12 of this act).

NEW SECTION. Sec. 17. Sections 1 through 12 of this act constitute a new chapter in Title 44 RCW.

NEW SECTION. Sec. 18. Captions used in this act are not part of the law.

NEW SECTION. Sec. 19. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the Senate March 11, 2003.

Passed by the House April 26, 2003.

Approved by the Governor May 19, 2003.

Filed in Office of Secretary of State May 19, 2003.

CHAPTER 363

[Substitute Senate Bill 5248]

TRANSPORTATION

AN ACT Relating to transportation; amending RCW 41.06.380 and 35.84.060; adding new sections to chapter 47.28 RCW; adding a new section to chapter 49.04 RCW; adding a new section to chapter 47.01 RCW; adding a new section to chapter 47.06 RCW; adding a new section to chapter 39.12 RCW; adding a new section to chapter 36.56 RCW; adding a new section to chapter 36.57A RCW; adding a new section to chapter 46.68 RCW; adding a new section to chapter 81.112 RCW; adding a new section to chapter 36.78 RCW; creating new sections; and making an appropriation.

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

PART I**ALTERNATIVE DELIVERY PROCEDURES FOR CONSTRUCTION SERVICES**

NEW SECTION. Sec. 101. The legislature finds that there is a pressing need for additional transportation projects to meet the mobility needs of Washington's citizens. With major new investments approved to meet these pressing needs, additional work force assistance is necessary to ensure and enhance project delivery timelines. Recruiting and retaining a high quality work force, and implementing new and innovative procedures for delivering these transportation projects, is required to accomplish them on a timely basis that best serves the public. It is the intent of sections 103 and 104 of this act that no state employees will lose their employment as a result of implementing new and innovative project delivery procedures.

NEW SECTION. Sec. 102. A new section is added to chapter 47.28 RCW to read as follows:

The definitions in this section apply throughout section 103 of this act and RCW 41.06.380 unless the context clearly requires otherwise.

(1) "Construction services" means those services that aid in the delivery of the highway construction program and include, but are not limited to, real estate services and construction engineering services.

(2) "Construction engineering services" include, but are not limited to, construction management, construction administration, materials testing, materials documentation, contractor payments and general administration, construction oversight, and inspection and surveying.

NEW SECTION. Sec. 103. A new section is added to chapter 47.28 RCW to read as follows:

(1) The department of transportation shall work with representatives of transportation labor groups to develop a financial incentive program to aid in retention and recruitment of employee classifications where problems exist and program delivery is negatively affected. The department's financial incentive program must be reviewed and approved by the legislature before it can be implemented. This program must support the goal of enhancing project delivery timelines as outlined in section 101 of this act. Upon receiving approval from the legislature, the department of personnel shall implement, as required, specific aspects of the financial incentive package, as developed by the department of transportation.

(2) Notwithstanding chapter 41.06 RCW, the department of transportation may acquire services from qualified private firms in order to deliver the transportation construction program to the public. Services may be acquired solely for augmenting the department's work force capacity and only when the department's transportation construction program cannot be delivered through its existing or readily available work force. The department of transportation shall work with representatives of transportation labor groups to develop and implement a program identifying those projects requiring contracted services while establishing a program as defined in subsection (1) of this section to provide the classified personnel necessary to deliver future construction programs. The procedures for acquiring construction engineering services from private firms may not be used to displace existing state employees nor diminish the number of existing classified positions in the present construction program. The acquisition procedures must be in accordance with chapter 39.80 RCW.

(3) Starting in December 2004, and biennially thereafter, the secretary shall report to the transportation committees of the legislature on the use of construction engineering services from private firms authorized under this section. The information provided to the committees must include an assessment of the benefits and costs associated with using construction engineering services, or other services, from private firms, and a comparison of public versus private sector costs. The secretary may act on these findings to ensure the most cost-effective means of service delivery.

Sec. 104. RCW 41.06.380 and 1979 ex.s. c 46 s 2 are each amended to read as follows:

(1) Nothing contained in this chapter shall prohibit any department, as defined in RCW 41.06.020, from purchasing services by contract with individuals or business entities if such services were regularly purchased by valid contract by such department prior to April 23, 1979: PROVIDED, That no such contract may be executed or renewed if it would have the effect of terminating classified employees or classified employee positions existing at the time of the execution or renewal of the contract.

(2) Nothing contained in this chapter prohibits the department of transportation from purchasing construction services or construction engineering services, as those terms are defined in section 102 of this act, by contract from qualified private businesses as specified in section 103(2) of this act.

PART II APPRENTICESHIP AND ADJUSTMENTS TO PREVAILING WAGE PROVISIONS

NEW SECTION. Sec. 201. (1) The legislature finds that a skilled technical work force is necessary for maintaining, preserving, and improving Washington's transportation system. The Blue Ribbon Commission on Transportation found that state and local transportation agencies are showing signs of a work force that is insufficiently skilled to operate the transportation system at its highest level. Sections 201 through 206 of this act are intended to explore methods for fostering a stronger industry in transportation planning and engineering.

(2) It is the intent of the legislature that the state prevailing wage process operate efficiently, that the process allow contractors and workers to be paid promptly, and that new technologies and innovative outreach methods be used to enhance wage surveys in order to better reflect current wages in counties across the state.

(3) The legislature finds that in order to enhance the prevailing wage process it is appropriate for all intent and affidavit fees paid by contractors be dedicated to the sole purpose of administering the state prevailing wage program.

(4) To accomplish the intent of this section and in order to enhance the response of businesses and labor representatives to the prevailing wage survey process, the department of labor and industries shall undertake the following activities:

(a) Establish a goal of conducting surveys for each trade every three years;

(b) Actively promote increased response rates from all survey recipients in every county both urban and rural. The department shall provide public education and technical assistance to businesses, labor representatives, and public agencies in order to promote a better understanding of prevailing wage laws and increased participation in the prevailing wage survey process;

(c) Actively work with businesses, labor representatives, public agencies, and others to ensure the integrity of information used in the development of prevailing wage rates, and ensure uniform compliance with requirements of sections 201 through 206 of this act;

(d) Maintain a timely processing of intents and affidavits, with a target processing time no greater than seven working days from receipt of completed forms;

(e) Develop and implement electronic processing of intents and affidavits and promote the efficient and effective use of technology to improve the services provided by the prevailing wage program.

NEW SECTION. Sec. 202. A new section is added to chapter 49.04 RCW to read as follows:

The apprenticeship council shall work with the department of transportation, local transportation jurisdictions, local and statewide joint apprenticeships, other apprenticeship programs, representatives of labor and business organizations with interest and expertise in the transportation work force, and representatives of the state's universities and community and vocational colleges to establish technical apprenticeship opportunities specific to the needs of transportation. The council shall issue a report of findings and recommendations to the transportation committees of the legislature by December 1, 2003. The report must include, but not be limited to, findings and recommendations regarding the establishment of transportation technical training programs within the community and vocational college system and in the state universities.

NEW SECTION. Sec. 203. A new section is added to chapter 47.01 RCW to read as follows:

The department of transportation shall work with local transportation jurisdictions and representatives of transportation labor groups to establish a human resources skills bank of transportation professionals. The skills bank

must be designed to allow all transportation authorities to draw from it when needed. The department shall issue a report of findings and recommendations to the transportation committees of the legislature by December 1, 2003. The report must include, but not be limited to, identification of any statutory or administrative rule changes necessary to create the skills bank and allow it to function in the manner described.

NEW SECTION. Sec. 204. A new section is added to chapter 47.06 RCW to read as follows:

The state interest component of the statewide multimodal transportation plan must include a plan for enhancing the skills of the existing technical transportation work force.

NEW SECTION. Sec. 205. The department of labor and industries, in cooperation with the department of transportation, shall conduct an assessment of the current practices, including survey techniques, used in setting prevailing wages for those trades related to transportation facilities and transportation project delivery. The assessment must include an analysis of regional variations and stratified random sampling survey methods. A final report must be submitted to the governor and the transportation and labor committees of the senate and house of representatives by July 1, 2003.

NEW SECTION. Sec. 206. A new section is added to chapter 39.12 RCW to read as follows:

(1) In establishing the prevailing rate of wage under RCW 39.12.010, 39.12.015, and 39.12.020, all data collected by the department may be used only in the county for which the work was performed.

(2) This section applies only to prevailing wage surveys initiated on or after August 1, 2003.

NEW SECTION. Sec. 207. The sum of one hundred thousand dollars, or as much thereof as may be necessary, is appropriated from the public works administration account to the department of labor and industries for the biennium ending June 30, 2005, to carry out the purposes of sections 201, 205, and 206 of this act.

PART III TRANSPORTATION PLANNING AND EFFICIENCY

NEW SECTION. Sec. 301. The legislature finds that roads, streets, bridges, and highways in the state represent public assets worth over one hundred billion dollars. These investments require regular maintenance and preservation, or rehabilitation, to provide cost-effective transportation services. Many of these facilities are in poor condition. Given the magnitude of public investment and the importance of safe, reliable roadways to the motoring public, the legislature intends to create stronger accountability to ensure that cost-effective maintenance and preservation is provided for these transportation facilities.

Sec. 302. RCW 35.84.060 and 1969 ex.s. c 281 s 26 are each amended to read as follows:

Every municipal corporation which owns or operates an urban public transportation system as defined in RCW 47.04.082 within its corporate

limits((-)) may acquire, construct, extend, own, or operate such urban public transportation system to any point or points not to exceed fifteen miles outside of its corporate limits: PROVIDED, That no municipal corporation shall extend its urban public transportation system beyond its corporate limits to operate in any territory already served by a privately operated auto transportation company holding a certificate of public convenience and necessity from the utilities and transportation commission.

As a condition of receiving state funding, the municipal corporation shall submit a maintenance management plan for certification by the transportation commission or its successor entity. The plan must inventory all transportation system assets within the direction and control of the municipality, and provide a preservation plan based on lowest life-cycle cost methodologies.

NEW SECTION. Sec. 303. A new section is added to chapter 36.56 RCW to read as follows:

As a condition of receiving state funding, a county that has assumed the transportation functions of a metropolitan municipal corporation shall submit a maintenance and preservation management plan for certification by the transportation commission or its successor entity. The plan must inventory all transportation system assets within the direction and control of the county, and provide a preservation plan based on lowest life-cycle cost methodologies.

NEW SECTION. Sec. 304. A new section is added to chapter 36.57A RCW to read as follows:

As a condition of receiving state funding, a public transportation benefit area authority shall submit a maintenance and preservation management plan for certification by the transportation commission or its successor entity. The plan must inventory all transportation system assets within the direction and control of the authority, and provide a preservation plan based on lowest life-cycle cost methodologies.

NEW SECTION. Sec. 305. A new section is added to chapter 46.68 RCW to read as follows:

During the 2003-2005 biennium, cities and towns shall provide to the transportation commission, or its successor entity, preservation rating information on at least seventy percent of the total city and town arterial network. Thereafter, the preservation rating information requirement shall increase in five percent increments in subsequent biennia. The rating system used by cities and towns must be based upon the Washington state pavement rating method or an equivalent standard approved by the transportation commission or its successor entity.

NEW SECTION. Sec. 306. A new section is added to chapter 81.112 RCW to read as follows:

As a condition of receiving state funding, a regional transit authority shall submit a maintenance and preservation management plan for certification by the transportation commission or its successor entity. The plan must inventory all transportation system assets within the direction and control of the transit authority, and provide a plan for preservation of assets based on lowest life-cycle cost methodologies.

NEW SECTION. Sec. 307. A new section is added to chapter 36.78 RCW to read as follows:

The county road administration board, or its successor entity, shall establish a standard of good practice for maintenance of transportation system assets. This standard must be implemented by all counties no later than December 31, 2007. The board shall develop a model maintenance management system for use by counties. The board shall develop rules to assist the counties in the implementation of this system. Counties shall annually submit their maintenance plans to the board. The board shall compile the county data regarding maintenance management and annually submit it to the transportation commission or its successor entity.

NEW SECTION. Sec. 308. Part headings used in this act are not part of the law.

NEW SECTION. Sec. 309. 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. 310. This act is null and void if new transportation revenues do not become law by January 1, 2004.

Passed by the Senate April 23, 2003.

Passed by the House April 8, 2003.

Approved by the Governor May 19, 2003.

Filed in Office of Secretary of State May 19, 2003.

CHAPTER 364

[Engrossed Substitute House Bill 2228]

COMMUTE TRIP REDUCTION INCENTIVES

AN ACT Relating to commute trip reduction incentives; adding a new section to chapter 70.94 RCW; adding a new chapter to Title 82 RCW; creating new sections; repealing RCW 82.04.4453, 82.04.4454, 82.16.048, 82.16.049, and 47.01.900; prescribing penalties; providing a contingent effective date; providing expiration dates; and declaring an emergency.

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

NEW SECTION. Sec. I. DEFINITIONS. The definitions in this section apply throughout this chapter and section 9 of this act unless the context clearly requires otherwise.

(1) "Public agency" means any county, city, or other local government agency or any state government agency, board, or commission.

(2) "Public transportation" means the same as "public transportation service" as defined in RCW 36.57A.010 and includes passenger services of the Washington state ferries.

(3) "Nonmotorized commuting" means commuting to and from the workplace by an employee by walking or running or by riding a bicycle or other device not powered by a motor.

(4) "Ride sharing" means the same as "flexible commuter ride sharing" as defined in RCW 46.74.010, including ride sharing on Washington state ferries.

(5) "Car sharing" means a membership program intended to offer an alternative to car ownership under which persons or entities that become members are permitted to use vehicles from a fleet on an hourly basis.

(6) "Telework" means a program where work functions that are normally performed at a traditional workplace are instead performed by an employee at

his or her home at least one day a week for the purpose of reducing the number of trips to the employee's workplace.

NEW SECTION. Sec. 2. TAX CREDITS—BUSINESS AND OCCUPATION AND PUBLIC UTILITY TAXES. (1) Employers in this state who are taxable under chapter 82.04 or 82.16 RCW and provide financial incentives to their own or other employees for ride sharing, for using public transportation, for using car sharing, or for using nonmotorized commuting before July 1, 2013, are allowed a credit against taxes payable under chapters 82.04 and 82.16 RCW for amounts paid to or on behalf of employees for ride sharing in vehicles carrying two or more persons, for using public transportation, for using car sharing, or for using nonmotorized commuting, not to exceed sixty dollars per employee per year.

(2) Property managers who are taxable under chapter 82.04 or 82.16 RCW and provide financial incentives to persons employed at a worksite in this state managed by the property manager for ride sharing, for using public transportation, for using car sharing, or for using nonmotorized commuting before July 1, 2013, are allowed a credit against taxes payable under chapters 82.04 and 82.16 RCW for amounts paid to or on behalf of these persons for ride sharing in vehicles carrying two or more persons, for using public transportation, for using car sharing, or for using nonmotorized commuting, not to exceed sixty dollars per person per year.

(3) The credit under this section is equal to the amount paid to or on behalf of each employee multiplied by fifty percent, but may not exceed sixty dollars per employee per year. The credit may not exceed the amount of tax that would otherwise be due under chapters 82.04 and 82.16 RCW.

(4) A person may not receive credit under this section for amounts paid to or on behalf of the same employee under both chapters 82.04 and 82.16 RCW.

(5) A person may not take a credit under this section for amounts claimed for credit by other persons.

NEW SECTION. Sec. 3. TAX CREDIT FILING. (1) Application for tax credit under section 2 of this act may only be made in the form and manner prescribed in rules adopted by the department.

(2) The credit under this section must be taken or deferred under section 4 of this act against taxes due for the same fiscal year in which the amounts for which credit is claimed were paid to or on behalf of employees for ride sharing, for using public transportation, for using car sharing, or for using nonmotorized commuting and must be claimed by the due date of the last tax return for the fiscal year in which the payment is made.

(3) Any person who knowingly makes a false statement of a material fact in the application for a credit under section 2 of this act is guilty of a gross misdemeanor.

NEW SECTION. Sec. 4. TAX CREDIT LIMITATIONS. (1) The department shall keep a running total of all credits accrued under section 2 of this act during each fiscal year. No person is eligible for tax credits under section 2 of this act if the credits would cause the tabulation for the total amount of credits taken in any fiscal year to exceed two million two hundred fifty thousand dollars. This limitation includes any credits carried forward under subsection (2)(b) of this section from prior years.

(2)(a) No person is eligible for tax credits under section 2 of this act in excess of the amount of tax that would otherwise be due under chapter 82.04 or 82.16 RCW.

(b) A person with taxes equal to or in excess of the credit under section 2 of this act, and therefore not subject to the limitation in (a) of this subsection, may defer tax credits for a period of not more than three years after the year in which the credits accrue. A person deferring tax credits under this subsection (2)(b) must submit an application in the year in which the tax credits will be applied. This application is subject to eligibility under subsection (1) of this section for the fiscal year in which the tax credits will be applied.

(3) No person is eligible for tax credits under section 2 of this act in excess of two hundred thousand dollars in any fiscal year. This limitation does not apply to credits deferred in prior years under subsection (2)(b) of this section.

(4) No person is eligible for tax credits, including deferred credits authorized under subsection (2)(b) of this section, after June 30, 2013.

(5) Credits may not be carried forward or carried backward other than as authorized in subsection (2)(b) of this section.

(6) No person is eligible for tax credits under section 2 of this act if the additional revenues for the multimodal transportation account created by Engrossed Substitute House Bill No. 2231 are terminated.

NEW SECTION. Sec. 5. FUND TRANSFER. (1) The director shall on the 25th of February, May, August, and November of each year advise the state treasurer of the amount of credit taken under section 2 of this act during the preceding calendar quarter ending on the last day of December, March, June, and September, respectively.

(2) On the last day of March, June, September, and December of each year, the state treasurer, based upon information provided by the department, shall deposit to the general fund a sum equal to the dollar amount of the credit provided under section 2 of this act from the multimodal transportation account.

NEW SECTION. Sec. 6. COMMUTE TRIP REDUCTION REPORTING. The commute trip reduction task force shall determine the effectiveness of the tax credit under section 2 of this act, the grant program in section 9 of this act, and the relative effectiveness of the tax credit and the grant program as part of its ongoing evaluation of the commute trip reduction law and report to the legislative transportation committee and to the fiscal committees of the house of representatives and the senate. The report must include information on the amount of tax credits claimed to date and recommendations on future funding between the tax credit program and the grant program. The report must be incorporated into the recommendations required in RCW 70.94.537(5).

NEW SECTION. Sec. 7. ADMINISTRATION. Chapter 82.32 RCW applies to the administration of this chapter.

NEW SECTION. Sec. 8. EXPIRATION. This chapter expires July 1, 2013, except for section 5 of this act, which expires January 1, 2014.

NEW SECTION. Sec. 9. A new section is added to chapter 70.94 RCW to read as follows:

(1) To the extent that funds are appropriated, the department of transportation shall administer a performance-based grant program for private employers, public agencies, nonprofit organizations, developers, and property

managers who provide financial incentives for ride sharing in vehicles carrying two or more persons, for using public transportation, for using car sharing, or for using nonmotorized commuting, including telework, before July 1, 2013, to their own or other employees.

(2) The amount of the grant will be determined based on the value to the transportation system of the vehicle trips reduced. The commute trip reduction task force shall develop an award rate giving priority to applications achieving the greatest reduction in trips and commute miles per public dollar requested and considering the following criteria: The local cost of providing new highway capacity, congestion levels, and geographic distribution.

(3) No private employer, public agency, nonprofit organization, developer, or property manager is eligible for grants under this section in excess of one hundred thousand dollars in any fiscal year.

(4) The total of grants provided under this section may not exceed seven hundred fifty thousand dollars in any fiscal year.

(5) The department of transportation shall report to the department of revenue by the 15th day of each month the aggregate monetary amount of grants provided under this section in the prior month and the identity of the recipients of those grants.

(6) The source of funds for this grant program is the multimodal transportation account.

(7) This section expires January 1, 2014.

NEW SECTION. Sec. 10. The following acts or parts of acts are each repealed:

(1) RCW 82.04.4453 (Credit—Ride-sharing, public transportation, or nonmotorized commuting incentives—Penalty—Report to legislature) and 1999 c 402 s 1, 1996 c 128 s 1, & 1994 c 270 s 2;

(2) RCW 82.04.4454 (Credit—Ride-sharing, public transportation, or nonmotorized commuting incentives—Ceiling) and 1999 c 402 s 3, 1996 c 128 s 2, & 1994 c 270 s 3;

(3) RCW 82.16.048 (Credit—Ride-sharing, public transportation, or nonmotorized commuting incentives—Penalty—Report to legislature) and 1999 c 402 s 2, 1996 c 128 s 3, & 1994 c 270 s 4;

(4) RCW 82.16.049 (Credit—Ride-sharing, public transportation, or nonmotorized commuting incentives—Ceiling) and 1999 c 402 s 4, 1996 c 128 s 4, & 1994 c 270 s 5; and

(5) RCW 47.01.900 (Commute trip reduction program—Transfer from state energy office—References to director or state energy office) and 1998 c 245 s 93 & 1996 c 186 s 301.

NEW SECTION. Sec. 11. Sections 1 through 8 of this act constitute a new chapter in Title 82 RCW.

NEW SECTION. Sec. 12. The code reviser shall place cross-reference sections to chapter 82.-- RCW (sections 1 through 8 of this act) in chapters 82.04 and 82.16 RCW.

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 takes effect on July 1, 2003, but only if Engrossed Substitute House Bill No. 2231 becomes law by July 1,

2003. If Engrossed Substitute House Bill No. 2231 does not become law by July 1, 2003, this act is null and void.

NEW SECTION. Sec. 14. Captions used in this act are not part of the law.

Passed by the House April 27, 2003.

Passed by the Senate April 26, 2003.

Approved by the Governor May 19, 2003.

Filed in Office of Secretary of State May 19, 2003.

CHAPTER 365

[Engrossed Substitute House Bill 1009]

VIDEO GAMES

AN ACT Relating to video and computer games depicting violence against public law enforcement officers; amending RCW 7.80.120; adding a new section to chapter 9.91 RCW; creating a new section; and prescribing penalties.

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

NEW SECTION. Sec. 1. The legislature finds that there has been an increase in studies showing a correlation between exposure to violent video and computer games and various forms of hostile and antisocial behavior. The entertainment software industry's ratings and content descriptors of video and computer games reflect that some video and computer games are suitable only for adults due to graphic depictions of sex and/or violence. Furthermore, some video and computer games focus on violence specifically against public law enforcement officers such as police and fire fighters. The legislature encourages retailers and parents to utilize the rating system.

In addition, the legislature finds there is a compelling interest to curb hostile and antisocial behavior in Washington's youth and to foster respect for public law enforcement officers.

NEW SECTION. Sec. 2. A new section is added to chapter 9.91 RCW to read as follows:

(1) A person who sells, rents, or permits to be sold or rented, any video or computer game they know to be a violent video or computer game to any minor has committed a class 1 civil infraction as provided in RCW 7.80.120.

(2) "Minor" means a person under seventeen years of age.

(3) "Person" means a retailer engaged in the business of selling or renting video or computer games including any individual, partnership, corporation, or association who is subject to the tax on retailers under RCW 82.04.250.

(4) "Violent video or computer game" means a video or computer game that contains realistic or photographic-like depictions of aggressive conflict in which the player kills, injures, or otherwise causes physical harm to a human form in the game who is depicted, by dress or other recognizable symbols, as a public law enforcement officer.

Sec. 3. RCW 7.80.120 and 1997 c 159 s 2 are each amended to read as follows:

(1) A person found to have committed a civil infraction shall be assessed a monetary penalty.

(a) The maximum penalty and the default amount for a class 1 civil infraction shall be two hundred fifty dollars, not including statutory assessments,

except for an infraction of state law involving tobacco products as specified in RCW 70.93.060(4) and an infraction of state law involving violent video or computer games under section 2 of this act, in which case the maximum penalty and default amount is five hundred dollars;

(b) The maximum penalty and the default amount for a class 2 civil infraction shall be one hundred twenty-five dollars, not including statutory assessments;

(c) The maximum penalty and the default amount for a class 3 civil infraction shall be fifty dollars, not including statutory assessments; and

(d) The maximum penalty and the default amount for a class 4 civil infraction shall be twenty-five dollars, not including statutory assessments.

(2) The supreme court shall prescribe by rule the conditions under which local courts may exercise discretion in assessing fines for civil infractions.

(3) Whenever a monetary penalty is imposed by a court under this chapter it is immediately payable. If the person is unable to pay at that time the court may grant an extension of the period in which the penalty may be paid. If the penalty is not paid on or before the time established for payment, the court may proceed to collect the penalty in the same manner as other civil judgments and may notify the prosecuting authority of the failure to pay.

(4) The court may also order a person found to have committed a civil infraction to make restitution.

Passed by the House March 18, 2003.

Passed by the Senate April 17, 2003.

Approved by the Governor May 20, 2003.

Filed in Office of Secretary of State May 20, 2003.

CHAPTER 366

[Substitute Senate Bill 5120]

IGNITION INTERLOCK DEVICES

AN ACT Relating to drivers convicted of alcohol offenses; and amending RCW 46.20.720 and 46.20.311.

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

Sec. 1. RCW 46.20.720 and 2001 c 247 s 1 are each amended to read as follows:

(1) The court may order that after a period of suspension, revocation, or denial of driving privileges, and for up to as long as the court has jurisdiction, any person convicted of any offense involving the use, consumption, or possession of alcohol while operating a motor vehicle may drive only a motor vehicle equipped with a functioning ignition interlock or other biological or technical device.

(2) ~~((If a))~~ (a) The department shall require that, after any applicable period of suspension, revocation, or denial of driving privileges, a person may drive only a motor vehicle equipped with a functioning ignition interlock or other biological or technical device if the person is convicted of a violation of RCW 46.61.502 or 46.61.504 or an equivalent local ordinance and it is:

~~((a))~~ (i) The person's first conviction or a deferred prosecution under chapter 10.05 RCW and his or her alcohol concentration was at least 0.15, or by

reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration; ~~((or (b)))~~

~~((ii) The person's second or subsequent conviction; or ((e)))~~

~~((iii) The person's first conviction and the person has a previous deferred prosecution under chapter 10.05 RCW or it is a deferred prosecution under chapter 10.05 RCW and the person has a previous conviction((, the court shall order that after any applicable period of suspension, revocation, or denial of driving privileges, the person may drive only a motor vehicle equipped with a functioning ignition interlock or other biological or technical device. The requirement to drive only a motor vehicle equipped with a functioning ignition interlock or other biological or technical device may not be suspended)).~~

~~((b) The ((court)) department may waive the requirement for the use of such a device if ((the court makes a specific finding in writing)) it concludes that such devices are not reasonably available in the local area. Nothing in this section may be interpreted as entitling a person to more than one deferred prosecution.~~

~~((3) In the case of a person under subsection (1) of this section, the court shall establish a specific calibration setting at which the ignition interlock or other biological or technical device will prevent the motor vehicle from being started and the period of time that the person shall be subject to the restriction. In the case of a person under subsection (2) of this section, the ignition interlock or other biological or technical device shall be calibrated to prevent the motor vehicle from being started when the breath sample provided has an alcohol concentration of 0.025 or more, and the period of time of the restriction will be as follows:~~

~~((a) For a person (i) who is subject to RCW 46.61.5055 (1)(b), (2), or (3), or who is subject to a deferred prosecution program under chapter 10.05 RCW((;)); and (ii) who has not previously been restricted under this section, a period of ((not less than)) one year;~~

~~((b) For a person who has previously been restricted under (a) of this subsection, a period of ((not less than)) five years;~~

~~((c) For a person who has previously been restricted under (b) of this subsection, a period of ((not less than)) ten years.~~

For purposes of this section, "convicted" means being found guilty of an offense or being placed on a deferred prosecution program under chapter 10.05 RCW.

Sec. 2. RCW 46.20.311 and 2001 c 325 s 2 are each amended to read as follows:

(1)(a) The department shall not suspend a driver's license or privilege to drive a motor vehicle on the public highways for a fixed period of more than one year, except as specifically permitted under RCW 46.20.267, 46.20.342, or other provision of law. Except for a suspension under RCW 46.20.267, 46.20.289, 46.20.291(5), 46.61.740, or 74.20A.320, whenever the license or driving privilege of any person is suspended by reason of a conviction, a finding that a traffic infraction has been committed, pursuant to chapter 46.29 RCW, or pursuant to RCW 46.20.291 or 46.20.308, the suspension shall remain in effect until the person gives and thereafter maintains proof of financial responsibility for the future as provided in chapter 46.29 RCW. If the suspension is the result of a violation of RCW 46.61.502 or 46.61.504, the department shall determine the person's eligibility for licensing based upon the reports provided by the

alcoholism agency or probation department designated under RCW 46.61.5056 and shall deny reinstatement until enrollment and participation in an approved program has been established and the person is otherwise qualified. If the suspension is the result of a violation of RCW 46.61.502 or 46.61.504, and the person is required pursuant to RCW 46.20.720 to drive only a motor vehicle equipped with a functioning ignition interlock or other biological or technical device, the department shall determine the person's eligibility for licensing based upon written verification by a company doing business in the state that it has installed the required device on a vehicle owned and/or operated by the person seeking reinstatement. Whenever the license or driving privilege of any person is suspended as a result of certification of noncompliance with a child support order under chapter 74.20A RCW or a residential or visitation order, the suspension shall remain in effect until the person provides a release issued by the department of social and health services stating that the person is in compliance with the order.

(b)(i) The department shall not issue to the person a new, duplicate, or renewal license until the person pays a reissue fee of twenty dollars.

(ii) If the suspension is the result of a violation of RCW 46.61.502 or 46.61.504, or is the result of administrative action under RCW 46.20.308, the reissue fee shall be one hundred fifty dollars.

(2)(a) Any person whose license or privilege to drive a motor vehicle on the public highways has been revoked, unless the revocation was for a cause which has been removed, is not entitled to have the license or privilege renewed or restored until: (i) After the expiration of one year from the date the license or privilege to drive was revoked; (ii) after the expiration of the applicable revocation period provided by RCW 46.20.3101 or 46.61.5055; (iii) after the expiration of two years for persons convicted of vehicular homicide; or (iv) after the expiration of the applicable revocation period provided by RCW 46.20.265.

(b)(i) After the expiration of the appropriate period, the person may make application for a new license as provided by law together with a reissue fee in the amount of twenty dollars.

(ii) If the revocation is the result of a violation of RCW 46.20.308, 46.61.502, or 46.61.504, the reissue fee shall be one hundred fifty dollars. If the revocation is the result of a violation of RCW 46.61.502 or 46.61.504, the department shall determine the person's eligibility for licensing based upon the reports provided by the alcoholism agency or probation department designated under RCW 46.61.5056 and shall deny reissuance of a license, permit, or privilege to drive until enrollment and participation in an approved program has been established and the person is otherwise qualified. If the revocation is the result of a violation of RCW 46.61.502 or 46.61.504, and the person is required pursuant to RCW 46.20.720 to drive only a motor vehicle equipped with a functioning ignition interlock or other biological or technical device, the department shall determine the person's eligibility for licensing based upon written verification by a company doing business in the state that it has installed the required device on a vehicle owned and/or operated by the person applying for a new license.

(c) Except for a revocation under RCW 46.20.265, the department shall not then issue a new license unless it is satisfied after investigation of the driving ability of the person that it will be safe to grant the privilege of driving a motor

vehicle on the public highways, and until the person gives and thereafter maintains proof of financial responsibility for the future as provided in chapter 46.29 RCW. For a revocation under RCW 46.20.265, the department shall not issue a new license unless it is satisfied after investigation of the driving ability of the person that it will be safe to grant that person the privilege of driving a motor vehicle on the public highways.

(3)(a) Whenever the driver's license of any person is suspended pursuant to Article IV of the nonresident violators compact or RCW 46.23.020 or 46.20.289 or 46.20.291(5), the department shall not issue to the person any new or renewal license until the person pays a reissue fee of twenty dollars.

(b) If the suspension is the result of a violation of the laws of this or any other state, province, or other jurisdiction involving (i) the operation or physical control of a motor vehicle upon the public highways while under the influence of intoxicating liquor or drugs, or (ii) the refusal to submit to a chemical test of the driver's blood alcohol content, the reissue fee shall be one hundred fifty dollars.

Passed by the Senate April 17, 2003.

Passed by the House April 9, 2003.

Approved by the Governor May 20, 2003.

Filed in Office of Secretary of State May 20, 2003.

CHAPTER 367

[Substitute Senate Bill 5868]

DRIVING ABSTRACTS—VOLUNTEERS

AN ACT Relating to driving abstracts of prospective volunteers; and reenacting and amending RCW 46.52.130.

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

Sec. 1. RCW 46.52.130 and 2002 c 352 s 20 and 2002 c 221 s 1 are each reenacted and amended to read as follows:

(1) A certified abstract of the driving record shall be furnished only to:

(a) The individual named in the abstract;

(b) An employer or prospective employer or an agent acting on behalf of an employer or prospective employer, or a volunteer organization for which the named individual has submitted an application for a position that could require the transportation of children under eighteen years of age, adults over sixty-five years of age, or physically or mentally disabled persons;

(c) An employee or agent of a transit authority checking prospective volunteer vanpool drivers for insurance and risk management needs;

(d) The insurance carrier that has insurance in effect covering the employer or a prospective employer;

(e) The insurance carrier that has motor vehicle or life insurance in effect covering the named individual;

(f) The insurance carrier to which the named individual has applied;

(g) An alcohol/drug assessment or treatment agency approved by the department of social and health services, to which the named individual has applied or been assigned for evaluation or treatment; or

(h) City and county prosecuting attorneys.

(2) City attorneys and county prosecuting attorneys may provide the driving record to alcohol/drug assessment or treatment agencies approved by the department of social and health services to which the named individual has applied or been assigned for evaluation or treatment.

(3) The director, upon proper request, shall furnish a certified abstract covering the period of not more than the last three years to insurance companies.

(4) Upon proper request, the director shall furnish a certified abstract covering a period of not more than the last five years to state approved alcohol/drug assessment or treatment agencies, except that the certified abstract shall also include records of alcohol-related offenses as defined in RCW 46.01.260(2) covering a period of not more than the last ten years.

(5) Upon proper request, a certified abstract of the full driving record maintained by the department shall be furnished to a city or county prosecuting attorney, to the individual named in the abstract, to an employer or prospective employer or an agent acting on behalf of an employer or prospective employer of the named individual, or to a volunteer organization for which the named individual has submitted an application for a position that could require the transportation of children under eighteen years of age, adults over sixty-five years of age, or physically or mentally disabled persons, or to an employee or agent of a transit authority checking prospective volunteer vanpool drivers for insurance and risk management needs.

(6) The abstract, whenever possible, shall include:

(a) An enumeration of motor vehicle accidents in which the person was driving;

(b) The total number of vehicles involved;

(c) Whether the vehicles were legally parked or moving;

(d) Whether the vehicles were occupied at the time of the accident;

(e) Whether the accident resulted in any fatality;

(f) Any reported convictions, forfeitures of bail, or findings that an infraction was committed based upon a violation of any motor vehicle law;

(g) The status of the person's driving privilege in this state; and

(h) Any reports of failure to appear in response to a traffic citation or failure to respond to a notice of infraction served upon the named individual by an arresting officer.

(7) Certified abstracts furnished to prosecutors and alcohol/drug assessment or treatment agencies shall also indicate whether a recorded violation is an alcohol-related offense as defined in RCW 46.01.260(2) that was originally charged as one of the alcohol-related offenses designated in RCW 46.01.260(2)(b)(i).

(8) The abstract provided to the insurance company shall exclude any information, except that related to the commission of misdemeanors or felonies by the individual, pertaining to law enforcement officers or fire fighters as defined in RCW 41.26.030, or any officer of the Washington state patrol, while driving official vehicles in the performance of occupational duty. The abstract provided to the insurance company shall include convictions for RCW 46.61.5249 and 46.61.525 except that the abstract shall report them only as negligent driving without reference to whether they are for first or second degree negligent driving. The abstract provided to the insurance company shall exclude any deferred prosecution under RCW 10.05.060, except that if a person is

removed from a deferred prosecution under RCW 10.05.090, the abstract shall show the deferred prosecution as well as the removal.

(9) The director shall collect for each abstract the sum of five dollars, which shall be deposited in the highway safety fund.

(10) Any insurance company or its agent receiving the certified abstract shall use it exclusively for its own underwriting purposes and shall not divulge any of the information contained in it to a third party. No policy of insurance may be canceled, nonrenewed, denied, or have the rate increased on the basis of such information unless the policyholder was determined to be at fault. No insurance company or its agent for underwriting purposes relating to the operation of commercial motor vehicles may use any information contained in the abstract relative to any person's operation of motor vehicles while not engaged in such employment, nor may any insurance company or its agent for underwriting purposes relating to the operation of noncommercial motor vehicles use any information contained in the abstract relative to any person's operation of commercial motor vehicles.

(11) Any employer or prospective employer or an agent acting on behalf of an employer or prospective employer, or a volunteer organization for which the named individual has submitted an application for a position that could require the transportation of children under eighteen years of age, adults over sixty-five years of age, or physically or mentally disabled persons, receiving the certified abstract shall use it exclusively for his or her own purpose to determine whether the licensee should be permitted to operate a commercial vehicle or school bus, or operate a vehicle for a volunteer organization for purposes of transporting children under eighteen years of age, adults over sixty-five years of age, or physically or mentally disabled persons, upon the public highways of this state and shall not divulge any information contained in it to a third party.

(12) Any employee or agent of a transit authority receiving a certified abstract for its vanpool program shall use it exclusively for determining whether the volunteer licensee meets those insurance and risk management requirements necessary to drive a vanpool vehicle. The transit authority may not divulge any information contained in the abstract to a third party.

(13) Any alcohol/drug assessment or treatment agency approved by the department of social and health services receiving the certified abstract shall use it exclusively for the purpose of assisting its employees in making a determination as to what level of treatment, if any, is appropriate. The agency, or any of its employees, shall not divulge any information contained in the abstract to a third party.

(14) Release of a certified abstract of the driving record of an employee ~~((or)),~~ prospective employee, or prospective volunteer requires a statement signed by: (a) The employee ~~((or)),~~ prospective employee, or prospective volunteer that authorizes the release of the record, and (b) the employer or volunteer organization attesting that the information is necessary to determine whether the licensee should be employed to operate a commercial vehicle or school bus, or operate a vehicle for a volunteer organization for purposes of transporting children under eighteen years of age, adults over sixty-five years of age, or physically or mentally disabled persons, upon the public highways of this state. If the employer or prospective employer authorizes an agent to obtain this information on their behalf, this must be noted in the statement.

- (15) Any negligent violation of this section is a gross misdemeanor.
 (16) Any intentional violation of this section is a class C felony.

Passed by the Senate March 16, 2003.

Passed by the House April 11, 2003.

Approved by the Governor May 20, 2003.

Filed in Office of Secretary of State May 20, 2003.

CHAPTER 368

[Substitute House Bill 2215]

VEHICLE DEALERS—DOCUMENTARY FEES

AN ACT Relating to vehicle dealer documentary service fees; amending RCW 63.14.010 and 63.14.130; reenacting and amending RCW 46.70.180; and providing contingent effect.

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

Sec. 1. RCW 46.70.180 and 2001 c 272 s 10 and 2001 c 64 s 9 are each reenacted and 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, lease, 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)(a) To incorporate within the terms of any purchase and sale or lease agreement any statement or representation with regard to the sale, lease, 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 or capitalized cost 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. However, an amount not to exceed thirty-five dollars per vehicle sale or lease may be charged by a dealer to recover administrative costs for collecting motor vehicle excise taxes, licensing and registration fees and other agency fees, verifying and clearing titles, transferring titles, perfecting, releasing, or satisfying liens or other security interests, and other administrative

and documentary services rendered by a dealer in connection with the sale or lease of a vehicle and in carrying out the requirements of this chapter or any other provisions of state law.

(b) A dealer may charge the documentary service fee in (a) of this subsection under the following conditions:

(i) The documentary service fee is disclosed in writing to a prospective purchaser or lessee before the execution of a purchase and sale or lease agreement;

(ii) The documentary service fee is not represented to the purchaser or lessee as a fee or charge required by the state to be paid by either the dealer or prospective purchaser or lessee;

(iii) The documentary service fee is separately designated from the selling price or capitalized cost of the vehicle and from any other taxes, fees, or charges; and

(iv) Dealers disclose in any advertisement that a documentary service fee in an amount up to thirty-five dollars may be added to the sale price or the capitalized cost.

For the purposes of this subsection (2), the term "documentary service fee" means the optional amount charged by a dealer to provide the services specified in (a) of this subsection.

(3) To set up, promote, or aid in the promotion of a plan by which vehicles are to be sold or leased to a person for a consideration and upon further consideration that the purchaser or lessee 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 or lessee 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 or lessee of a vehicle a written order or offer to purchase or lease, or a contract document signed by the buyer or lessee, which:

(a) Is subject to the dealer's, or his or her authorized representative's future acceptance, and the dealer fails or refuses within three calendar days, exclusive of Saturday, Sunday, or legal holiday, and prior to any further negotiations with said buyer or lessee, either (i) to deliver to the buyer or lessee the dealer's signed acceptance, or (ii) to void the order, offer, or contract document and tender the return of any initial payment or security made or given by the buyer or lessee, 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 or lessee as part of the purchase price or lease, for any reason except:

(i) Failure to disclose that the vehicle's certificate of ownership has been branded for any reason, including, but not limited to, status as a rebuilt vehicle as provided in RCW 46.12.050 and 46.12.075; or

(ii) 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

(iii) Excessive additional miles or a discrepancy in the mileage. "Excessive additional miles" means the addition of five hundred miles or more, as reflected on the vehicle's odometer, between the time the vehicle was first valued by the dealer for purposes of determining its trade-in value and the time of actual delivery of the vehicle to the dealer. "A discrepancy in the mileage" means (A) a discrepancy between the mileage reflected on the vehicle's odometer and the stated mileage on the signed odometer statement; or (B) a discrepancy between the mileage stated on the signed odometer statement and the actual mileage on the vehicle; 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 salesperson to refuse to furnish, upon request of a prospective purchaser or lessee, for vehicles previously registered to a business or governmental entity, the name and address of the business or governmental entity.

(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. However, a dealer may issue a second temporary permit on a vehicle if the following conditions are met:

(a) The lienholder fails to deliver the vehicle title to the dealer within the required time period;

(b) The dealer has satisfied the lien; and

(c) The dealer has proof that payment of the lien was made within two calendar days, exclusive of Saturday, Sunday, or a legal holiday, after the sales contract has been executed by all parties and all conditions and contingencies in the sales contract have been met or otherwise satisfied.

(9) For a dealer, salesperson, or mobile home manufacturer, having taken an instrument or cash "on deposit" from a purchaser or lessee prior to the delivery of the bargained-for vehicle, to commingle the "on deposit" funds with assets of the dealer, salesperson, or mobile home manufacturer instead of holding the "on deposit" funds as trustee in a separate trust account until the purchaser or lessee has taken delivery of the bargained-for vehicle. Delivery of a manufactured home shall be deemed to occur in accordance with RCW 46.70.135(5). Failure, immediately upon receipt, to endorse "on deposit" instruments to such a trust account, or to set aside "on deposit" cash for deposit in such trust account, and failure to deposit such instruments or cash in such trust account by the close of banking hours on the day following receipt thereof, shall be evidence of intent to commit this unlawful practice: PROVIDED, HOWEVER, That a motor vehicle dealer may keep a separate trust account which equals his or her customary total customer deposits for vehicles for future delivery. For purposes of this section, "on deposit" funds received from a purchaser of a manufactured home means those funds that a seller requires a purchaser to advance before ordering the

manufactured home, but does not include any loan proceeds or moneys that might have been paid on an installment contract.

(10) For a dealer or manufacturer to fail to comply with the obligations of any written warranty or guarantee given by the dealer or manufacturer requiring the furnishing of goods and services or repairs within a reasonable period of time, or to fail to furnish to a purchaser or lessee, 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 or lease agreement signed by the seller and buyer or lessee.

(11) For a vehicle dealer to pay to or receive from any person, firm, partnership, association, or corporation acting, either directly or through a subsidiary, as a buyer's agent for consumers, any compensation, fee, purchase moneys or funds that have been deposited into or withdrawn out of any account controlled or used by any buyer's agent, gratuity, or reward in connection with the purchase, sale, or lease of a new motor vehicle.

(12) For a buyer's agent, acting directly or through a subsidiary, to pay to or to receive from any motor vehicle dealer any compensation, fee, gratuity, or reward in connection with the purchase, sale, or lease of a new motor vehicle. In addition, it is unlawful for any buyer's agent to engage in any of the following acts on behalf of or in the name of the consumer:

(a) Receiving or paying any purchase moneys or funds into or out of any account controlled or used by any buyer's agent;

(b) Signing any vehicle purchase orders, sales contracts, leases, odometer statements, or title documents, or having the name of the buyer's agent appear on the vehicle purchase order, sales contract, lease, or title; or

(c) Signing any other documentation relating to the purchase, sale, lease, or transfer of any new motor vehicle.

It is unlawful for a buyer's agent to use a power of attorney obtained from the consumer to accomplish or effect the purchase, sale, lease, or transfer of ownership documents of any new motor vehicle by any means which would otherwise be prohibited under (a) through (c) of this subsection. However, the buyer's agent may use a power of attorney for physical delivery of motor vehicle license plates to the consumer.

Further, it is unlawful for a buyer's agent to engage in any false, deceptive, or misleading advertising, disseminated in any manner whatsoever, including but not limited to making any claim or statement that the buyer's agent offers, obtains, or guarantees the lowest price on any motor vehicle or words to similar effect.

(13) For a buyer's agent to arrange for or to negotiate the purchase, or both, of a new motor vehicle through an out-of-state dealer without disclosing in writing to the customer that the new vehicle would not be subject to chapter 19.118 RCW. This subsection also applies to leased vehicles. In addition, it is unlawful for any buyer's agent to fail to have a written agreement with the customer that: (a) Sets forth the terms of the parties' agreement; (b) discloses to the customer the total amount of any fees or other compensation being paid by the customer to the buyer's agent for the agent's services; and (c) further discloses whether the fee or any portion of the fee is refundable.

(14) Being a manufacturer, other than a motorcycle manufacturer governed by chapter 46.94 RCW, to:

(a) Coerce or attempt to coerce any vehicle dealer to order or accept delivery of any vehicle or vehicles, parts or accessories, or any other commodities which have not been voluntarily ordered by the vehicle dealer: PROVIDED, That recommendation, endorsement, exposition, persuasion, urging, or argument are not deemed to constitute coercion;

(b) Cancel or fail to renew the franchise or selling agreement of any vehicle dealer doing business in this state without fairly compensating the dealer at a fair going business value for his or her capital investment which shall include but not be limited to tools, equipment, and parts inventory possessed by the dealer on the day he or she is notified of such cancellation or termination and which are still within the dealer's possession on the day the cancellation or termination is effective, if: (i) The capital investment has been entered into with reasonable and prudent business judgment for the purpose of fulfilling the franchise; and (ii) the cancellation or nonrenewal was not done in good faith. Good faith is defined as the duty of each party to any franchise to act in a fair and equitable manner towards each other, so as to guarantee one party freedom from coercion, intimidation, or threats of coercion or intimidation from the other party: PROVIDED, That recommendation, endorsement, exposition, persuasion, urging, or argument are not deemed to constitute a lack of good faith;

(c) Encourage, aid, abet, or teach a vehicle dealer to sell or lease 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 or lease 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 or lessee of any new or unused vehicle that has been sold or leased, distributed for sale or lease, or transferred into this state for resale or lease 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 (14)(b) of this section do not apply to new motor vehicle manufacturers governed by chapter 46.96 RCW.

(15) Unlawful transfer of an ownership interest in a motor vehicle as defined in RCW 19.116.050.

(16) To knowingly and intentionally engage in collusion with a registered owner of a vehicle to repossess and return or resell the vehicle to the registered owner in an attempt to avoid a suspended license impound under chapter 46.55 RCW. However, compliance with chapter 62A.9A RCW in repossessing, selling, leasing, or otherwise disposing of the vehicle, including providing redemption rights to the debtor, is not a violation of this section.

Sec. 2. RCW 63.14.010 and 1999 c 113 s 1 are each amended to read as follows:

In this chapter, unless the context otherwise requires:

(1) "Goods" means all chattels personal when purchased primarily for personal, family, or household use and not for commercial or business use, but not including money or, except as provided in the next sentence, things in action. The term includes but is not limited to merchandise certificates or coupons, issued by a retail seller, to be used in their face amount in lieu of cash in exchange for goods or services sold by such a seller and goods which, at the time of sale or subsequently, are to be so affixed to real property as to become a part thereof, whether or not severable therefrom;

(2) "Lender credit card" means a card or device under a lender credit card agreement pursuant to which the issuer gives to a cardholder residing in this state the privilege of obtaining credit from the issuer or other persons in purchasing or leasing property or services, obtaining loans, or otherwise, and the issuer of which is not: (a) Principally engaged in the business of selling goods; or (b) a financial institution;

(3) "Lender credit card agreement" means an agreement entered into or performed in this state prescribing the terms of retail installment transactions pursuant to which the issuer may, with the buyer's consent, purchase or acquire one or more retail sellers' indebtedness of the buyer under a sales slip or memorandum evidencing the purchase, lease, loan, or otherwise to be paid in accordance with the agreement. The issuer of a lender credit card agreement shall not be principally engaged in the business of selling goods or be a financial institution;

(4) "Financial institution" means any bank or trust company, mutual savings bank, credit union, or savings and loan association organized pursuant to the laws of any one of the United States of America or the United States of America, or the laws of a foreign country if also qualified to conduct business in any one of the United States of America or pursuant to the laws of the United States of America;

(5) "Services" means work, labor, or services of any kind when purchased primarily for personal, family, or household use and not for commercial or business use whether or not furnished in connection with the delivery, installation, servicing, repair, or improvement of goods and includes repairs, alterations, or improvements upon or in connection with real property, but does not include services for which the price charged is required by law to be determined or approved by or to be filed, subject to approval or disapproval, with the United States or any state, or any department, division, agency, officer, or official of either as in the case of transportation services;

(6) "Retail buyer" or "buyer" means a person who buys or agrees to buy goods or obtain services or agrees to have services rendered or furnished, from a retail seller;

(7) "Retail seller" or "seller" means a person engaged in the business of selling goods or services to retail buyers;

(8) "Retail installment transaction" means any transaction in which a retail buyer purchases goods or services from a retail seller pursuant to a retail installment contract, a retail charge agreement, or a lender credit card agreement, as defined in this section, which provides for a service charge, as defined in this section, and under which the buyer agrees to pay the unpaid principal balance in one or more installments or which provides for no service charge and under which the buyer agrees to pay the unpaid balance in more than four installments;

(9) "Retail installment contract" or "contract" means a contract, other than a retail charge agreement, a lender credit card agreement, or an instrument reflecting a sale made pursuant thereto, entered into or performed in this state for a retail installment transaction. The term "retail installment contract" may include a chattel mortgage, a conditional sale contract, and a contract in the form of a bailment or a lease if the bailee or lessee contracts to pay as compensation for their use a sum substantially equivalent to or in excess of the value of the goods sold and if it is agreed that the bailee or lessee is bound to become, or for no other or a merely nominal consideration, has the option of becoming the owner of the goods upon full compliance with the provisions of the bailment or lease. The term "retail installment contract" does not include: (a) A "consumer lease," heretofore or hereafter entered into, as defined in RCW 63.10.020; (b) a lease which would constitute such "consumer lease" but for the fact that: (i) It was entered into before April 29, 1983; (ii) the lessee was not a natural person; (iii) the lease was not primarily for personal, family, or household purposes; or (iv) the total contractual obligations exceeded twenty-five thousand dollars; or (c) a lease-purchase agreement under chapter 63.19 RCW;

(10) "Retail charge agreement," "revolving charge agreement," or "charge agreement" means an agreement between a retail buyer and a retail seller that is entered into or performed in this state and that prescribes the terms of retail installment transactions with one or more sellers which may be made thereunder from time to time and under the terms of which a service charge, as defined in this section, is to be computed in relation to the buyer's unpaid balance from time to time;

(11) "Service charge" however denominated or expressed, means the amount which is paid or payable for the privilege of purchasing goods or services to be paid for by the buyer in installments over a period of time. It does not include the amount, if any, charged for insurance premiums, delinquency charges, attorneys' fees, court costs, any vehicle dealer administrative fee under RCW 46.12.042, any vehicle dealer documentary service fee under RCW 46.70.180(2), or official fees;

(12) "Sale price" means the price for which the seller would have sold or furnished to the buyer, and the buyer would have bought or obtained from the seller, the goods or services which are the subject matter of a retail installment transaction. The sale price may include any taxes, registration and license fees, any vehicle dealer administrative fee, any vehicle dealer documentary service fee, and charges for transferring vehicle titles, delivery, installation, servicing, repairs, alterations, or improvements;

(13) "Official fees" means the amount of the fees prescribed by law and payable to the state, county, or other governmental agency for filing, recording,

or otherwise perfecting, and releasing or satisfying, a retained title, lien, or other security interest created by a retail installment transaction;

(14) "Time balance" means the principal balance plus the service charge;

(15) "Principal balance" means the sale price of the goods or services which are the subject matter of a retail installment contract less the amount of the buyer's down payment in money or goods or both, plus the amounts, if any, included therein, if a separate identified charge is made therefor and stated in the contract, for insurance, any vehicle dealer administrative fee, any vehicle dealer documentary service fee, and official fees; and the amount actually paid or to be paid by the retail seller pursuant to an agreement with the buyer to discharge a security interest or lien on like-kind goods traded in or lease interest in the circumstance of a lease for like goods being terminated in conjunction with the sale pursuant to a retail installment contract;

(16) "Person" means an individual, partnership, joint venture, corporation, association, or any other group, however organized;

(17) "Rate" means the percentage which, when multiplied times the outstanding balance for each month or other installment period, yields the amount of the service charge for such month or period.

Sec. 3. RCW 63.14.130 and 1999 c 113 s 4 are each amended to read as follows:

The service charge shall be inclusive of all charges incident to investigating and making the retail installment contract or charge agreement and for the privilege of making the installment payments thereunder and no other fee, expense or charge whatsoever shall be taken, received, reserved or contracted therefor from the buyer, except for any vehicle dealer administrative fee under RCW 46.12.042 or for any vehicle dealer documentary service fee under RCW 46.70.180(2).

(1) The service charge, in a retail installment contract, shall not exceed the dollar amount or rate agreed to by contract and disclosed under RCW 63.14.040(1)(h).

(2) The service charge in a retail charge agreement, revolving charge agreement, lender credit card agreement, or charge agreement, shall not exceed the schedule or rate agreed to by contract and disclosed under RCW 63.14.120(1). If the service charge so computed is less than one dollar for any month, then one dollar may be charged.

NEW SECTION. Sec. 4. This act takes effect only when Senate Bill No. 6061 or House Bill No. 2231 takes effect. If neither of these bills takes effect by December 31, 2003, this act is null and void in its entirety.

Passed by the House April 26, 2003.

Passed by the Senate April 16, 2003.

Approved by the Governor May 20, 2003.

Filed in Office of Secretary of State May 20, 2003.

CHAPTER 369

[Substitute House Bill 1036]

DEPARTMENT OF LICENSING—SUBAGENTS

AN ACT Relating to department of licensing agent and subagent provisions; amending RCW 46.01.230; providing contingent effect; and providing an effective date.

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

Sec. 1. RCW 46.01.230 and 1994 c 262 s 1 are each amended to read as follows:

(1) The department of licensing is authorized to accept checks and money orders for payment of drivers' licenses, certificates of ownership and registration, motor vehicle excise taxes, gross weight fees, and other fees and taxes collected by the department, in accordance with regulations adopted by the director. The director's regulations shall duly provide for the public's convenience consistent with sound business practice and shall encourage the annual renewal of vehicle registrations by mail to the department, authorizing checks and money orders for payment. Such regulations shall contain provisions for cancellation of any registrations, licenses, or permits paid for by checks or money orders which are not duly paid and for the necessary accounting procedures in such cases: PROVIDED, That any bona fide purchaser for value of a vehicle shall not be liable or responsible for any prior uncollected taxes and fees paid, pursuant to this section, by a check which has subsequently been dishonored: AND PROVIDED FURTHER, That no transfer of ownership of a vehicle may be denied to a bona fide purchaser for value of a vehicle if there are outstanding uncollected fees or taxes for which a predecessor paid, pursuant to this section, by check which has subsequently been dishonored nor shall the new owner be required to pay any fee for replacement vehicle license number plates that may be required pursuant to RCW 46.16.270 as now or hereafter amended.

(2) It is a traffic infraction to fail to surrender within ten days to the department or any authorized agent of the department any certificate, license, or permit after being notified that such certificate, license, or permit has been canceled pursuant to this section. Notice of cancellation may be accomplished by sending a notice by first class mail using the last known address in department records for the holder of the certificate, license, or permit, and recording the transmittal on an affidavit of first class mail.

(3) Whenever registrations, licenses, or permits have been paid for by checks that have been dishonored by nonacceptance or nonpayment, a reasonable handling fee may be assessed for each such instrument. Notwithstanding provisions of any other laws, county auditors, agents, and subagents, appointed or approved by the director pursuant to RCW 46.01.140, may collect restitution, and where they have collected restitution may retain the reasonable handling fee. The amount of the reasonable handling fee may be set by rule by the director.

(4) In those counties where the county auditor has been appointed an agent of the director under RCW 46.01.140, the auditor shall continue to process mail-in registration renewals until directed otherwise by legislative authority. Subagents appointed by the director under RCW 46.01.140 have the same authority to mail out registrations and replacement plates to Internet payment option customers as the agents until directed otherwise by legislative authority. The department shall provide separate statements giving notice to Internet payment option customers that: (a) A subagent service fee, as provided in RCW 46.01.140(5)(b), will be collected by a subagent office for providing mail and pick-up services; and (b) a filing fee will be collected on all transactions listed under RCW 46.01.140(4)(a). The statement must include the amount of the fee and be published on the department's Internet web site on the page that lists each

department, county auditor, and subagent office, eligible to provide mail or pick-up services for registration renewals and replacement plates. The statements must be published below each office listed.

NEW SECTION. Sec. 2. This act takes effect October 1, 2003.

NEW SECTION. Sec. 3. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2003, in the omnibus transportation appropriations act, this act is null and void.

Passed by the House April 21, 2003.

Passed by the Senate April 15, 2003.

Approved by the Governor May 20, 2003.

Filed in Office of Secretary of State May 20, 2003.

CHAPTER 370

[House Bill 2065]

LICENSE PLATES

AN ACT Relating to license plate technology; amending RCW 46.16.230, 46.16.233, and 46.01.140; adding new sections to chapter 46.16 RCW; and creating new sections.

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

**Sec. 1. RCW 46.16.230 and 1992 c 7 s 41 are each amended to read as follows:*

(1) The director shall furnish to all persons making satisfactory application for vehicle license as provided by law, two identical vehicle license number plates each containing the vehicle license number to be displayed on such vehicle as by law required: PROVIDED, That if the vehicle to be licensed is a trailer, semitrailer or motorcycle only one vehicle license number plate shall be issued for each thereof. The number and plate shall be of such size and color and shall contain such symbols indicative of the registration period for which the same is issued and of the state of Washington, as shall be determined and prescribed by the director. Any vehicle license number plate or plates issued to a dealer shall contain thereon a sufficient and satisfactory indication that such plates have been issued to a dealer in vehicles. All vehicle license number plates ~~((may))~~ shall be obtained by the director from the metal working plant of a state correctional facility ~~((or from any source in accordance with existing state of Washington purchasing procedures)).~~

(2) Notwithstanding the foregoing provisions of this section, the director may, in his discretion and under such rules and regulations as he may prescribe, adopt a type of vehicle license number plates whereby the same shall be used as long as legible on the vehicle for which issued, with provision for tabs or emblems to be attached thereto or elsewhere on the vehicle to signify renewals, in which event the term "vehicle license number plate" as used in any enactment shall be deemed to include in addition to such plate the tab or emblem signifying renewal except when such plate contains the designation of the current year without reference to any tab or emblem. Renewals shall be effected by the issuance and display of such tab or emblem.

(3) The department shall implement a flat, digitally printed license plate system. This system must be in place and operational by July 1, 2004, and must be used to produce all license plates issued by the department by no later

than January 1, 2007. The department must phase in the production of flat, digitally printed license plates by first issuing special and personalized plates using this system. Before January 1, 2007, the department may issue all license plates as flat, digitally printed license plates, if the department determines that production of all license plates by the digital printing system is economically viable.

**Sec. 1 was vetoed. See message at end of chapter.*

**Sec. 2. RCW 46.16.233 and 2000 c 37 s 1 are each amended to read as follows:*

(1) Except for those license plates issued under RCW 46.16.305(1) before January 1, 1987, under RCW 46.16.305(3), and to commercial vehicles with a gross weight in excess of twenty-six thousand pounds, effective with vehicle registrations due or to become due on January 1, 2001, the appearance of all vehicle license plates must be ((issued on a standard background)) legible and clearly identifiable as a Washington state license plate, as designated by the department.

(2) Additionally, to ensure maximum legibility and reflectivity, the department shall periodically provide for the replacement of license plates, except for commercial vehicles with a gross weight in excess of twenty-six thousand pounds. Frequency of replacement shall be established in accordance with empirical studies documenting the longevity of the reflective materials used to make license plates.

(3) In providing for the periodic replacement of license plates, the department shall offer to vehicle owners the option of retaining their current license plate numbers. The department shall charge a retention fee of twenty dollars if this option is exercised. Revenue generated from the retention fee must be deposited into the license plate technology account created under section 4 of this act until such time as the financing necessary to implement a digital license plate system has been paid in full. After the financing has been paid in full, the revenue collected under this section shall be deposited into the multimodal transportation account.

**Sec. 2 was vetoed. See message at end of chapter.*

Sec. 3. RCW 46.01.140 and 2001 c 331 s 1 are each amended to read as follows:

(1) The county auditor, if appointed by the director of licensing shall carry out the provisions of this title relating to the licensing of vehicles and the issuance of vehicle license number plates under the direction and supervision of the director and may with the approval of the director appoint assistants as special deputies and recommend subagents to accept applications and collect fees for vehicle licenses and transfers and to deliver vehicle license number plates.

(2) A county auditor appointed by the director may request that the director appoint subagencies within the county.

(a) Upon authorization of the director, the auditor shall use an open competitive process including, but not limited to, a written business proposal and oral interview to determine the qualifications of all interested applicants.

(b) A subagent may recommend a successor who is either the subagent's sibling, spouse, or child, or a subagency employee, as long as the recommended

successor participates in the open, competitive process used to select an applicant. In making successor recommendation and appointment determinations, the following provisions apply:

(i) If a subagency is held by a partnership or corporate entity, the nomination must be submitted on behalf of, and agreed to by, all partners or corporate officers.

(ii) No subagent may receive any direct or indirect compensation or remuneration from any party or entity in recognition of a successor nomination. A subagent may not receive any financial benefit from the transfer or termination of an appointment.

(iii) (a) and (b) of this subsection are intended to assist in the efficient transfer of appointments in order to minimize public inconvenience. They do not create a proprietary or property interest in the appointment.

(c) The auditor shall submit all proposals to the director, and shall recommend the appointment of one or more subagents who have applied through the open competitive process. The auditor shall include in his or her recommendation to the director, not only the name of the successor who is a relative or employee, if applicable and if otherwise qualified, but also the name of one other applicant who is qualified and was chosen through the open competitive process. The director has final appointment authority.

(3)(a) A county auditor who is appointed as an agent by the department shall enter into a standard contract provided by the director, developed with the advice of the title and registration advisory committee.

(b) A subagent appointed under subsection (2) of this section shall enter into a standard contract with the county auditor, developed with the advice of the title and registration advisory committee. The director shall provide the standard contract to county auditors.

(c) The contracts provided for in (a) and (b) of this subsection must contain at a minimum provisions that:

(i) Describe the responsibilities, and where applicable, the liability, of each party relating to the service expectations and levels, equipment to be supplied by the department, and equipment maintenance;

(ii) Require the specific type of insurance or bonds so that the state is protected against any loss of collected motor vehicle tax revenues or loss of equipment;

(iii) Specify the amount of training that will be provided by the state, the county auditor, or subagents;

(iv) Describe allowable costs that may be charged to vehicle licensing activities as provided for in (d) of this subsection;

(v) Describe the causes and procedures for termination of the contract, which may include mediation and binding arbitration.

(d) The department shall develop procedures that will standardize and prescribe allowable costs that may be assigned to vehicle licensing and vessel registration and title activities performed by county auditors.

(e) The contracts may include any provision that the director deems necessary to ensure acceptable service and the full collection of vehicle and vessel tax revenues.

(f) The director may waive any provisions of the contract deemed necessary in order to ensure that readily accessible service is provided to the citizens of the state.

(4)(a) At any time any application is made to the director, the county auditor, or other agent pursuant to any law dealing with licenses, registration, or the right to operate any vehicle or vessel upon the public highways or waters of this state, excluding applicants already paying such fee under RCW 46.16.070 or 46.16.085, the applicant shall pay to the director, county auditor, or other agent a fee of three dollars for each application in addition to any other fees required by law.

(b) Counties that do not cover the expenses of vehicle licensing and vessel registration and title activities may submit to the department a request for cost-coverage moneys. The request must be submitted on a form developed by the department. The department shall develop procedures to verify whether a request is reasonable. Payment shall be made on requests found to be allowable from the licensing services account.

(c) Applicants for certificates of ownership, including applicants paying fees under RCW 46.16.070 or 46.16.085, shall pay to the director, county auditor, or other agent a fee of four dollars in addition to any other fees required by law.

(d) The fees under (a) and (c) of this subsection, if paid to the county auditor as agent of the director, or if paid to a subagent of the county auditor, shall be paid to the county treasurer in the same manner as other fees collected by the county auditor and credited to the county current expense fund. If the fee is paid to another agent of the director, the fee shall be used by the agent to defray his or her expenses in handling the application.

(e) Applicants required to pay the three-dollar fee established under (a) of this subsection, must pay an additional (~~(fifty)~~ seventy-five) cents, which must be collected and remitted to the state treasurer (~~(for deposit)~~) and distributed as follows:

(i) Fifty cents must be deposited into the department of licensing services account of the motor vehicle fund(~~(-Revenue deposited into this account))~~ and must be used for agent and subagent support, which is to include but not be limited to the replacement of department-owned equipment in the possession of agents and subagents.

(ii) Twenty-five cents must be deposited into the license plate technology account created under section 4 of this act.

(5) A subagent shall collect a service fee of (a) eight dollars and fifty cents for changes in a certificate of ownership, with or without registration renewal, or verification of record and preparation of an affidavit of lost title other than at the time of the title application or transfer and (b) three dollars and fifty cents for registration renewal only, issuing a transit permit, or any other service under this section.

(6) If the fee is collected by the state patrol as agent for the director, the fee so collected shall be certified to the state treasurer and deposited to the credit of the state patrol highway account. If the fee is collected by the department of transportation as agent for the director, the fee shall be certified to the state treasurer and deposited to the credit of the motor vehicle fund. All such fees

collected by the director or branches of his office shall be certified to the state treasurer and deposited to the credit of the highway safety fund.

(7) Any county revenues that exceed the cost of providing vehicle licensing and vessel registration and title activities in a county, calculated in accordance with the procedures in subsection (3)(d) of this section, shall be expended as determined by the county legislative authority during the process established by law for adoption of county budgets.

(8) The director may adopt rules to implement this section.

NEW SECTION. Sec. 4. A new section is added to chapter 46.16 RCW to read as follows:

The license plate technology account is created in the state treasury. All receipts collected under RCW 46.01.140(4)(e)(ii) must be deposited into this account. Expenditures from this account must support current and future license plate technology and systems integration upgrades for both the department and correctional industries. Moneys in the account may be spent only after appropriation. Additionally, the moneys in this account may be used to reimburse the motor vehicle account for any appropriation made to implement the digital license plate system.

***NEW SECTION. Sec. 5.** *A new section is added to chapter 46.16 RCW to read as follows:*

The department shall offer license plate design services to organizations that are sponsoring a new special license plate series or are seeking to redesign the appearance of an existing special license plate series that they sponsored. In providing this service, the department must work with the requesting organization in determining the specific qualities of the new plate design and must provide full design services to the organization. The department shall collect from the requesting organization a fee of one thousand five hundred dollars for providing license plate design services. This fee includes one original license plate design and up to five additional renditions of the original design. If the organization requests the department to provide further renditions, in addition to the five renditions provided for under the original fee, the department shall collect an additional fee of five hundred dollars per rendition. All revenue collected under this section must be deposited into the license plate technology account created under section 4 of this act until such time as the financing necessary to implement a digital license plate system has been paid in full. After the financing has been paid in full, the revenue collected under this section shall be deposited into the multimodal transportation account.

**Sec. 5 was vetoed. See message at end of chapter.*

NEW SECTION. Sec. 6. Sections 2 and 3 of this act take effect for renewals that are due or become due on or after November 1, 2003.

***NEW SECTION. Sec. 7.** *If this act is not referenced by bill or chapter number by June 30, 2003, in the omnibus transportation appropriations act, this act is null and void.*

**Sec. 7 was vetoed. See message at end of chapter.*

Passed by the House April 27, 2003.

Passed by the Senate April 17, 2003.

Approved by the Governor May 20, 2003, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 20, 2003.

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

"I am returning herewith, without my approval as to sections 1, 2, 5 and 7, House Bill No. 2065 entitled:

"AN ACT Relating to license plate technology;"

This bill requires the Department of Licensing (DOL) to implement a flat, digitally printed license plate system and designates fees for this purpose.

Section 1 would have required DOL to phase in digital license plates starting July 1, 2004, with full implementation by January 1, 2007. For many decades, the Department of Corrections has produced embossed license plates, which are readable and durable, at a reasonable price. While the transition to digital license plates may afford some advantages, with so many other pressing transportation demands, the substantial six-year cost of \$10.3 million is not warranted at this time.

Section 2 would have provided that for a fee of twenty dollars, vehicle owners may retain their current license plate number upon replacement. Section 5 would have established fees for the DOL design of special license plates. These sections provided that these fees be deposited into the license plate technology account for the financing of a digital license plate system. Only after the financing of such a system had been fully paid, would such fee revenues be eligible for deposit into the multimodal account. I have vetoed these sections because I prefer the unfettered distribution of these revenues to the multimodal account, as provided in Engrossed Substitute House Bill No. 2231, which I signed yesterday.

Section 7 would have provided that this bill is null and void if not referenced in the omnibus transportation appropriations act by June 30, 2003. Since I have vetoed sections 212(4) and 409 of the omnibus transportation appropriations act, Engrossed Substitute House Bill No. 1163, I have vetoed section 7.

Despite these section vetoes, I support the eventual transition to digital license plate technology, and have retained the twenty-five cent registration fee for deposit in the license plate technology account as provided in section 3. While we are saving for this transition, we can take a more deliberative approach to designing a system that best fits the state's needs. I have directed DOL to continue to explore new and innovative ways to utilize technology advancements to improve services and to provide the most cost-effective business practices possible. We will continue to work with the appropriate legislative committees to address the intent of section 1.

For these reasons, I have vetoed sections 1, 2, 5 and 7 of House Bill No. 2065.

With the exception of sections 1, 2, 5 and 7, House Bill No. 2065 is approved."

CHAPTER 371

[Substitute House Bill 1655]

NURSES—PARKING PRIVILEGES

AN ACT Relating to determination of disability for special parking privileges by advanced registered nurse practitioners; and amending RCW 46.16.381.

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

Sec. 1. RCW 46.16.381 and 2002 c 175 s 33 are each amended to read as follows:

(1) The director shall grant special parking privileges to any person who has a disability that limits or impairs the ability to walk and meets one of the following criteria, as determined by a licensed physician or an advanced registered nurse practitioner licensed under chapter 18.79 RCW:

- (a) Cannot walk two hundred feet without stopping to rest;
- (b) Is severely limited in ability to walk due to arthritic, neurological, or orthopedic condition;
- (c) Is so severely disabled, that the person cannot walk without the use of or assistance from a brace, cane, another person, prosthetic device, wheelchair, or other assistive device;
- (d) Uses portable oxygen;
- (e) Is restricted by lung disease to such an extent that forced expiratory respiratory volume, when measured by spirometry is less than one liter per second or the arterial oxygen tension is less than sixty mm/hg on room air at rest;
- (f) Impairment by cardiovascular disease or cardiac condition 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 or advanced registered nurse practitioner of the applicant shall document that the disability is comparable in severity to the others listed in this subsection.

(2) The applications for disabled parking permits and temporary disabled parking permits are official state documents. Knowingly providing false information in conjunction with the application is a gross misdemeanor punishable under chapter 9A.20 RCW. The following statement must appear on each application form immediately below the physician's or advanced registered nurse practitioner's signature and immediately below the applicant's signature: "A disabled parking permit may be issued only for a medical necessity that severely affects mobility (RCW 46.16.381). Knowingly providing false information on this application is a gross misdemeanor. The penalty is up to one year in jail and a fine of up to \$5,000 or both."

(3) Persons who qualify for special parking privileges are entitled to receive from the department of licensing a removable windshield placard bearing the international symbol of access and an individual serial number, along with a special identification card bearing the name and date of birth of the person to whom the placard is issued, and the placard's serial number. The special identification card shall be issued no later than January 1, 2000, to all persons who are issued parking placards, including those issued for temporary disabilities, and special disabled parking license plates. The department shall design the placard to be displayed when the vehicle is parked by suspending it from the rearview mirror, or in the absence of a rearview mirror the card may be displayed on the dashboard of any vehicle used to transport the disabled person. Instead of regular motor vehicle license plates, disabled persons are entitled to receive special license plates bearing the international symbol of access for one vehicle registered in the disabled person's name. Disabled persons who are not issued the special license plates are entitled to receive a second special placard upon submitting a written request to the department. Persons who have been issued the parking privileges and who are using a vehicle or are riding in a vehicle displaying the special license plates or placard may park in places reserved for mobility disabled persons. The director shall adopt rules providing for the issuance of special placards and license plates to public transportation authorities, nursing homes licensed under chapter 18.51 RCW, boarding homes licensed under chapter 18.20 RCW, senior citizen centers, private nonprofit

agencies as defined in chapter 24.03 RCW, and vehicles registered with the department as cabulances that regularly transport disabled persons who have been determined eligible for special parking privileges provided under this section. The director may issue special license plates for a vehicle registered in the name of the public transportation authority, nursing home, boarding homes, senior citizen center, private nonprofit agency, or cabulance service if the vehicle is primarily used to transport persons with disabilities described in this section. Public transportation authorities, nursing homes, boarding homes, senior citizen centers, private nonprofit agencies, and cabulance services are responsible for insuring that the special placards and license plates are not used improperly and are responsible for all fines and penalties for improper use.

(4) Whenever the disabled person transfers or assigns his or her interest in the vehicle, the special license plates shall be removed from the motor vehicle. If another vehicle is acquired by the disabled person and the vehicle owner qualifies for a special plate, 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 surrendered to the director.

(5) 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 has a condition expected to improve within six months may be issued a temporary placard for a period not to exceed six months. If the condition exists after six months a new temporary placard shall be issued upon receipt of a new certification from the disabled person's physician. The permanent parking placard and identification card of a disabled person shall be renewed at least every five years, as required by the director, by satisfactory proof of the right to continued use of the privileges. In the event of the permit holder's death, the parking placard and identification card must be immediately surrendered to the department. The department shall match and purge its disabled permit data base with available death record information at least every twelve months.

(6) Each person who has been issued a permanent disabled parking permit on or before July 1, 1998, must renew the permit no later than July 1, 2003, subject to a schedule to be set by the department, or the permit will expire.

(7) Additional fees shall not be charged for the issuance of the special placards or the identification cards. No additional fee may be charged for the issuance of the special license plates except the regular motor vehicle registration fee and any other fees and taxes required to be paid upon registration of a motor vehicle.

(8) Any unauthorized use of the special placard, special license plate, or identification card is a traffic infraction with a monetary penalty of two hundred fifty dollars.

(9) It is a parking infraction, with a monetary penalty of two hundred fifty dollars for a person to make inaccessible the access aisle located next to a space reserved for physically disabled persons. The clerk of the court shall report all violations related to this subsection to the department.

(10) It is a parking infraction, with a monetary penalty of two hundred 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 or placard. 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 or placard required under this section. A local jurisdiction providing nonmetered, on-street parking places reserved for physically disabled persons may impose by ordinance time restrictions of no less than four hours on the use of these parking places. A local jurisdiction may impose by ordinance time restrictions of no less than four hours on the use of nonreserved, on-street parking spaces by vehicles displaying the special parking placards. All time restrictions must be clearly posted.

(11) The penalties imposed under subsections (9) and (10) of this section shall be used by that local jurisdiction exclusively for law enforcement. The court may also impose an additional penalty sufficient to reimburse the local jurisdiction for any costs it may have incurred in removal and storage of the improperly parked vehicle.

(12) Except as provided by subsection (2) of this section, it is a traffic infraction with a monetary penalty of two hundred fifty dollars for any person willfully to obtain a special license plate, placard, or identification card in a manner other than that established under this section.

(13)(a) A law enforcement agency authorized to enforce parking laws may appoint volunteers, with a limited commission, to issue notices of infractions for violations of this section or RCW 46.61.581. Volunteers must be at least twenty-one years of age. The law enforcement agency appointing volunteers may establish any other qualifications the agency deems desirable.

(b) An agency appointing volunteers under this section must provide training to the volunteers before authorizing them to issue notices of infractions.

(c) A notice of infraction issued by a volunteer appointed under this subsection has the same force and effect as a notice of infraction issued by a police officer for the same offense.

(d) A police officer or a volunteer may request a person to show the person's identification card or special parking placard when investigating the possibility of a violation of this section. If the request is refused, the person in charge of the vehicle may be issued a notice of infraction for a violation of this section.

(14) For second or subsequent violations of this section, in addition to a monetary fine, the violator must complete a minimum of forty hours of:

(a) Community restitution for a nonprofit organization that serves the disabled community or persons having disabling diseases; or

(b) Any other community restitution that may sensitize the violator to the needs and obstacles faced by persons who have disabilities.

(15) The court may not suspend more than one-half of any fine imposed under subsection (8), (9), (10), or (12) of this section.

Passed by the House March 14, 2003.

Passed by the Senate April 17, 2003.

Approved by the Governor May 20, 2003.

Filed in Office of Secretary of State May 20, 2003.

CHAPTER 372

[Senate Bill 5769]

TRANSPORTATION DISTRICTS—BOND AUTHORITY

AN ACT Relating to regional transportation investment district bond authority; and amending RCW 36.120.130.

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

Sec. 1. RCW 36.120.130 and 2002 c 56 s 113 are each amended to read as follows:

~~((The district may borrow money, but may not issue any debt of its own for more than two years' duration. A district may issue notes or other evidences of indebtedness with a maturity of not more than two years. A district may, when authorized by the plan, enter into agreements with the state or lead agencies to pledge taxes or other revenues of the district for the purpose of paying in part or whole principal and interest on bonds issued by the lead agency. The contracts pledging revenues and taxes are binding for the term of the agreement, but not to exceed twenty five years, and no tax pledged by an agreement may be eliminated or modified if it would impair the pledge of the agreement.))~~

(1)(a) Notwithstanding RCW 39.36.020(1), the district may at any time contract indebtedness or borrow money for district purposes and may issue general obligation bonds or other evidences of indebtedness, secured by the pledge of one or more of the taxes, tolls, charges, or fees authorized to be imposed by the district, in an amount not exceeding, together with any existing indebtedness of the district not authorized by the voters, one and one-half percent of the value of the taxable property within the boundaries of the district.

(b) With the assent of three-fifths of the voters voting at an election, a district may contract indebtedness or borrow money for district purposes and may issue general obligation bonds or other evidences of indebtedness as long as the total indebtedness of the district does not exceed five percent of the value of the taxable property within the district, including indebtedness authorized under (a) of this subsection. The bonds shall be issued and sold in accordance with chapter 39.46 RCW.

(2) The district may at any time issue revenue bonds or other evidences of indebtedness, secured by the pledge of one or more of the revenues authorized to be collected by the district, to provide funds to carry out its authorized functions without submittin the matter to the voters ofthe district., These obli ations shall be issued and sold in accordance with chapter 39.46 RCW.

(3) The district may enter into agreements with the lead agencies or the state of Washington, when authorized by the plan, to pledge taxes or other revenues of the district for the purpose of paying in part or whole principal and interest on bonds issued by the lead agency or the state of Washington. The agreements pledging revenues and taxes shall be binding for their terms, but not to exceed thirty years, and no tax pledged by an agreement may be eliminated or modified if it would impair the pledge made in any agreement.

(4) Once construction of projects in the plan has been completed, revenues collected by the district may only be used for the following purposes: (a) Payment of principal and interest on outstanding indebtedness of the district; (b) to make payments required under a pledging agreement; and (c) to make

payments for maintenance and operations of toll facilities as may be required by toll bond covenants.

Passed by the Senate March 13, 2003.

Passed by the House April 27, 2003.

Approved by the Governor May 20, 2003.

Filed in Office of Secretary of State May 20, 2003.

CHAPTER 373

[Engrossed House Bill 1388]

PASSENGER-ONLY FERRIES

AN ACT Relating to incentives to increase transportation revenues by reforming laws limiting the provision of passenger-only ferry service; amending RCW 47.60.120, 47.64.090, 81.84.010, 81.84.020, and 81.84.060; 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 state department of transportation should focus on its core ferry mission of moving automobiles on Washington state's marine highways. The legislature finds that current statutes impose barriers to entities other than the state operating passenger-only ferries. The legislature intends to lift those barriers to allow entities other than the state to provide passenger-only ferry service. The legislature finds that the provision of this service and the improvement in the mobility of the citizens of Washington state is legally adequate consideration for the use of state facilities in conjunction with the provision of the service, and the legislature finds that allowing the operators of passenger-only ferries to use state facilities on the basis of legally adequate consideration does not evince donative intent on the part of the legislature.

Sec. 2. RCW 47.60.120 and 1993 c 427 s 1 are each amended to read as follows:

(1) If the department acquires or constructs, maintains, and operates any ferry crossings upon or toll bridges over Puget Sound or any of its tributary or connecting waters, there shall not be constructed, operated, or maintained any other ferry crossing upon or bridge over any such waters within ten miles of any such crossing or bridge operated or maintained by the department excepting such bridges or ferry crossings in existence, and being operated and maintained under a lawfully issued franchise at the time of the location of the ferry crossing or construction of the toll bridge by the department.

(2) The ten-mile distance in subsection (1) of this section means ten statute miles measured by airline distance. The ten-mile restriction shall be applied by comparing the two end points (termini) of a state ferry crossing to those of a private ferry crossing.

(3) The Washington utilities and transportation commission may, upon written petition of a commercial ferry operator certificated or applying for certification under chapter 81.84 RCW, and upon notice and hearing, grant a waiver from the ten-mile restriction. The waiver must not be detrimental to the public interest. In making a decision to waive the ten-mile restriction, the commission shall consider, but is not limited to, the impact of the waiver on transportation congestion mitigation, air quality improvement, and the overall

impact on the Washington state ferry system. The commission shall act upon a request for a waiver within ninety days after the conclusion of the hearing. A waiver is effective for a period of five years from the date of issuance. At the end of five years the waiver becomes permanent unless appealed within thirty days by the commission on its own motion, the department, or an interested party.

(4) The department shall not maintain and operate any ferry crossing or toll bridge over Puget Sound or any of its tributary or connecting waters that would infringe upon any franchise lawfully issued by the state and in existence and being exercised at the time of the location of the ferry crossing or toll bridge by the department, without first acquiring the rights granted to such franchise holder under the franchise.

(5) This section does not apply to operators of passenger-only ferry service.

Sec. 3. RCW 47.64.090 and 1983 c 15 s 27 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, if any party assumes the operation and maintenance of any ferry or ferry system by rent, lease, or charter from the department of transportation, such party shall assume and be bound by all the provisions herein and any agreement or contract for such operation of any ferry or ferry system entered into by the department shall provide that the wages to be paid, hours of employment, working conditions and seniority rights of employees will be established by the marine employees' commission in accordance with the terms and provisions of this chapter and it shall further provide that all labor disputes shall be adjudicated in accordance with chapter 47.64 RCW.

(2) The department of transportation shall make its terminal, dock, and pier space available to private operators of passenger-only ferries if the space can be made available without limiting the operation of car ferries operated by the department. These private operators are not bound by the provisions of subsection (1) of this section. Charges for the equipment and space must be fair market value taking into account the public benefit derived from the passenger-only ferry service.

Sec. 4. RCW 81.84.010 and 1993 c 427 s 2 are each amended to read as follows:

(1) No commercial ferry may hereafter operate any vessel or ferry for the public use for hire between fixed termini or over a regular route upon the waters within this state, including the rivers and lakes and Puget Sound, without first applying for and obtaining from the commission a certificate declaring that public convenience and necessity require such operation. Service authorized by certificates issued before or after July 25, 1993, to a commercial ferry operator shall be exercised by the operator in a manner consistent with the conditions established in the certificate or tariffs: PROVIDED, That no certificate shall be required for a vessel primarily engaged in transporting freight other than vehicles, whose gross earnings from the transportation of passengers and/or vehicles, are not more than ten percent of the total gross annual earnings of such vessel: PROVIDED, That nothing herein shall be construed to affect the right of any county public transportation benefit area or other public agency within this state to construct, condemn, purchase, operate, or maintain, itself or by contract,

agreement, or lease, with any person, firm, or corporation, ferries or boats across or wharfs at or upon the waters within this state, including rivers and lakes and Puget Sound, provided such operation is not over the same route or between the same districts, being served by a certificate holder without first acquiring the rights granted to the certificate holder under the certificate, nor shall this chapter be construed to affect, amend, or invalidate any contract entered into prior to January 15, 1927, for the operation of ferries or boats upon the waters within this state, which was entered into in good faith by any county with any person, firm, or corporation, except that in case of the operation or maintenance by any county, city, town, port district, or other political subdivision by contract, agreement, or lease with any person, firm, or corporation, of ferries or boats across or wharfs at or upon the waters within this state, including rivers and lakes and Puget Sound, the commission shall have power and authority to regulate rates and services of such operation or maintenance of ferries, boats, or wharfs, to make, fix, alter, or amend said rates, and to regulate service and safety of operations thereof, in the manner and to the same extent as it is empowered to regulate a commercial ferry, notwithstanding the provisions of any act or parts of acts inconsistent herewith.

(2) The holder of a certificate of public convenience and necessity granted under this chapter must initiate service within five years of obtaining the certificate, except that the holder of a certificate of public convenience and necessity for passenger-only ferry service in Puget Sound must initiate service within twenty months of obtaining the certificate. The certificate holder shall report to the commission every six months after the certificate is granted on the progress of the certificated route. The reports shall include, but not be limited to, the progress of environmental impact, parking, local government land use, docking, and financing considerations. ~~((However))~~ Except in the case of passenger-only service in Puget Sound, if service has not been initiated within five years of obtaining the certificate, the commission may extend the certificate on a twelve-month basis for up to three years if the six-month progress reports indicate there is significant advancement toward initiating service.

(3) The commission shall review certificates in existence as of July 25, 1993, where service is not being provided on all or any portion of the route or routes certificated. Based on progress reports required under subsection (2) of this section, the commission may grant an extension beyond that provided in subsection (2) of this section. Such additional extension may not exceed a total of two years.

Sec. 5. RCW 81.84.020 and 1993 c 427 s 3 are each amended to read as follows:

(1) Upon the filing of an application the commission shall give reasonable notice to the department, affected cities ~~((and)),~~ counties, and public transportation benefit areas and any common carrier which might be adversely affected, of the time and place for hearing on such application. The commission shall have power after hearing, to issue the certificate as prayed for, or to refuse to issue it, or to issue it for the partial exercise only of the privilege sought, and may attach to the exercise of the rights granted by said certificate such terms and conditions as in its judgment the public convenience and necessity may require; but the commission shall not have power to grant a certificate to operate between districts and/or into any territory prohibited by RCW 47.60.120 or already

served by an existing certificate holder, unless such existing certificate holder has failed or refused to furnish reasonable and adequate service or has failed to provide the service described in its certificate or tariffs after the time period allowed to initiate service has elapsed: PROVIDED, A certificate shall be granted when it shall appear to the satisfaction of the commission that the commercial ferry was actually operating in good faith over the route for which such certificate shall be sought, on January 15, 1927: PROVIDED, FURTHER, That in case two or more commercial ferries shall upon said date have been operating vessels upon the same route, or between the same districts the commission shall determine after public hearing whether one or more certificates shall issue, and in determining to whom a certificate or certificates shall be issued, the commission shall consider all material facts and circumstances including the prior operation, schedules, and services rendered by either of the ferries, and in case more than one certificate shall issue, the commission shall fix and determine the schedules and services of the ferries to which the certificates are issued to the end that duplication of service be eliminated and public convenience be furthered.

(2) Before issuing a certificate, the commission shall determine that the applicant has the financial resources to operate the proposed service for at least twelve months, based upon the submission by the applicant of a pro forma financial statement of operations. Issuance of a certificate shall be determined upon, but not limited to, the following factors: Ridership and revenue forecasts; the cost of service for the proposed operation; an estimate of the cost of the assets to be used in providing the service; a statement of the total assets on hand of the applicant that will be expended on the proposed operation; and a statement of prior experience, if any, in such field by the applicant. The documentation required of the applicant under this section shall comply with the provisions of RCW 9A.72.085.

(3) Subsection (2) of this section does not apply to an application for a certificate that is pending as of July 25, 1993.

(4) In granting a certificate for passenger-only ferries and determining what conditions to place on the certificate, the commission shall consider and give substantial weight to the effect of its decisions on public agencies operating, or eligible to operate, passenger-only ferry service.

(5) Until March 1, 2005, the commission shall not consider an application for passenger-only ferry service serving any county in Puget Sound, unless the public transportation benefit area authority or ferry district serving that county, by resolution, agrees to the application.

Sec. 6. RCW 81.84.060 and 1993 c 427 s 7 are each amended to read as follows:

The commission, upon complaint by an interested party, or upon its own motion after notice and opportunity for hearing, may cancel, revoke, suspend, alter, or amend a certificate issued under this chapter on any of the following grounds:

(1) Failure of the certificate holder to initiate service by the conclusion of the fifth year after the certificate has been granted or by the conclusion of an extension granted under RCW 81.84.010 (2) or (3), if the commission has considered the progress report information required under RCW 81.84.010 (2) or (3);

(2) Failure of a certificate holder for passenger-only ferry service in Puget Sound to initiate service by the conclusion of the twentieth month after the certificate has been granted:

(3) Failure of the certificate holder to file an annual report;

~~((3))~~ (4) The filing by a certificate holder of an annual report that shows no revenue in the previous twelve-month period after service has been initiated;

~~((4))~~ (5) The violation of any provision of this chapter;

~~((5))~~ (6) The violation of or failure to observe the provisions or conditions of the certificate or tariffs;

~~((6))~~ (7) The violation of an order, decision, rule, regulation, or requirement established by the commission under this chapter;

~~((7))~~ (8) Failure of a certificate holder to maintain the required insurance coverage in full force and effect; or

~~((8))~~ (9) Failure or refusal to furnish reasonable and adequate service after initiating service.

The commission shall take appropriate action within thirty days upon a complaint by an interested party or of its own finding that a provision of this section has been violated.

Passed by the House March 31, 2003.

Passed by the Senate April 14, 2003.

Approved by the Governor May 20, 2003.

Filed in Office of Secretary of State May 20, 2003.

CHAPTER 374

[Substitute Senate Bill 5974]

FERRIES—BUSINESS PRACTICES

AN ACT Relating to the exercise of sound business practices to enhance revenues for Washington State Ferries; and amending RCW 47.60.135, 47.60.140, 47.60.150, 47.60.326, and 47.60.330.

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

Sec. 1. RCW 47.60.135 and 1997 c 323 s 2 are each amended to read as follows:

(1) The charter use of Washington State Ferry vessels when established route operations and normal user requirements are not disrupted is permissible. In establishing chartering agreements, Washington State Ferries shall consider the special needs of local communities and interested parties. Washington State Ferries shall use sound business judgment and be sensitive to the interests of existing private enterprises.

(2) Consistent with the policy as established in subsection (1) of this section, the ~~((general manager))~~ chief executive officer of the Washington State Ferries may approve agreements for the chartering of Washington State Ferry vessels to groups or individuals, including hazardous material transporters, in accordance with the following:

(a) Vessels may be committed to charter only when established route operation and normal user requirements are not disrupted or inconvenienced. If a vessel is engaged in the transport of hazardous materials, the transporter shall pay for all legs necessary to complete the charter, even if the vessel is

simultaneously engaged in an operational voyage on behalf of Washington State Ferries.

(b) Charter rates for vessels must be established at actual vessel operating costs plus ~~((fifty percent of such actual costs rounded to the nearest fifty dollars))~~ a market-rate profit margin. Actual vessel operating costs include, but are not limited to, all labor, fuel, and vessel maintenance costs incurred due to the charter agreement, including deadheading and standby.

~~(c) ((Recognizing the need for stabilized charter rates in order to encourage use of vessels, rates must be established and revised July 1st of each year and must remain fixed for a one year period unless actual vessel operating costs increase five percent or more within that year, in which case the charter rates must be revised in accordance with (b) of this subsection.~~

~~(d) All charter agreements must be in writing and substantially in the form of (c) of this subsection and available, with calculations, for inspection by the legislature and the public.~~

~~(e)) Parties chartering Washington State Ferry vessels shall comply with all applicable laws, rules, and regulations during the charter voyage, and failure to so comply is cause for immediate termination of the charter voyage.~~

~~(("CHARTER CRUISE AGREEMENT~~

~~On this day of,, Washington State Ferries (WSF) and, hereinafter called Lessee, enter into this agreement for rental of a ferry vessel for the purpose of a charter voyage to be held on, the parties agree as follows:~~

~~1. WSF agrees to supply the vessel (subject to change) for the use of the Lessee from the period from to on (date).~~

~~2. The maximum number of passengers; or in the case of hazardous materials transports, trucks and trailers; that will be accommodated on the assigned vessel is This number MAY NOT be exceeded.~~

~~3. The voyage will originate at, and the route of travel during the voyage will be as follows:~~

~~.....~~

~~4. The charge for the above voyage is dollars (\$) plus a property damage deposit of \$350 for a total price of \$, to be paid by cashier's check three working days before the date of the voyage at the offices of the WSF at Seattle Ferry Terminal, Pier 52, Seattle, Washington 98104. The Lessee remains responsible for property damage in excess of \$350.~~

~~5. WSF is responsible only for the navigational operation of the chartered ferry and in no way is responsible for directing voyage activities, providing equipment, or any food service.~~

~~6. Other than for hazardous materials transport, the voyage activities must be conducted exclusively on the passenger decks of the assigned ferry. Voyage patrons will not be permitted to enter the pilot house or the engine room, nor shall the vehicle decks be used for any purpose other than loading or unloading of voyage patrons or hazardous materials.~~

~~7. If the Lessee or any of the voyage patrons will possess or consume alcoholic beverages aboard the vessel, the Lessee must obtain the appropriate licenses or permits from the Washington State Liquor Control Board. The Lessee must furnish copies of any necessary licenses or permits to WSF at the same time payment for the voyage is made. Failure to comply with applicable laws, rules, and regulations of appropriate State and Federal agencies is cause for immediate termination of the voyage, and WSF shall retain all payments made as liquidated damages.~~

~~8. WSF is not obligated to provide shoreside parking for the vehicles belonging to voyage patrons.~~

~~9. The Lessee recognizes that the primary function of the WSF is for the cross-Sound transportation of the public and the maintaining of the existing schedule. The Lessee recognizes therefore the right of WSF to cancel a voyage commitment without liability to the Lessee due to unforeseen circumstances or events that require the use of the chartered vessel on its scheduled route operations. In the event of such a cancellation, WSF agrees to refund the entire amount of the charter fee to the Lessee.~~

~~10. The Lessee agrees to hold WSF harmless from, and shall process and defend at its own expense, all claims, demands, or suits at law or equity, of whatever nature brought against WSF arising in whole or in part from the performance of provisions of this agreement. This indemnity provision does not require the Lessee to defend or indemnify WSF against any action based solely on the alleged negligence of WSF.~~

~~11. This writing is the full agreement between the parties.~~

..... WASHINGTON STATE FERRIES
Lessee

By: By:
General Manager")

Sec. 2. RCW 47.60.140 and 1995 1st sp.s. c 4 s 2 are each amended to read as follows:

(1) The department is empowered to operate such ferry system, including all operations, whether intrastate or international, upon any route or routes, and toll bridges as a revenue-producing and self-liquidating undertaking. The department has full charge of the construction, rehabilitation, rebuilding, enlarging, improving, operation, and maintenance of the ferry system, including toll bridges, approaches, and roadways incidental thereto that may be authorized by the department, including the collection of tolls and other charges for the services and facilities of the undertaking. The department has the exclusive right to enter into leases and contracts for use and occupancy by other parties of the concessions and space located on the ferries, wharves, docks, approaches, parking lots, and landings, including the selling of commercial advertising space and licenses to use the Washington State Ferries trademarks, but, except as provided in subsection (2) of this section, no such leases or contracts may be entered into for more than ten years, nor without a competitive contract process,

except as otherwise provided in this section. The competitive process shall be either an invitation for bids in accordance with the process established by chapter 43.19 RCW, or a request for proposals in accordance with the process established by RCW 47.56.030. All revenues from commercial advertising, concessions, parking, leases, and contracts must be deposited in the Puget Sound ferry operations account in accordance with RCW 47.60.150.

(2) As part of a joint development agreement under which a public or private developer constructs or installs improvements on ferry system property, the department may lease all or part of such property and improvements to such developers for that period of time, not to exceed fifty-five years, or not to exceed thirty years for those areas located within harbor areas, which the department determines is necessary to allow the developer to make reasonable recovery on its initial investment. Any lease entered into as provided for in this subsection that involves state aquatic lands shall conform with the Washington state Constitution and applicable statutory requirements as determined by the department of natural resources. That portion of the lease rate attributable to the state aquatic lands shall be distributed in the same manner as other lease revenues derived from state aquatic lands as provided in RCW 79.24.580.

(3) The department shall include in the strategic planning and performance assessment process, as required by RCW 43.88.090, an analysis of the compatibility of public and private partnerships with the state ferry system's core business, and the department's efforts to maximize nonfarebox revenues and provide benefit to the public users of the ferry system facilities. The department shall include an assessment of the need for an open solicitation to identify and select possible public or private partnerships in order to maximize the value of projects and the state's investment in current and future ferry system operations.

(a) When the department determines that an open solicitation is necessary, a request for proposal shall be released, consisting of an open solicitation outlining functional specifications to be used as the basis for selecting partnerships in the project.

(b) Any responses to the request for proposal shall be evaluated, at a minimum, on the basis of compatibility with the state ferry system's core business, potential to maximize nonfarebox revenue, longevity of the possible partnership commitment, and benefit to the public users of the ferry system facilities.

(c) If no responses are received, or those that are received are incompatible with ferry system operations, or do not meet the criteria stated in (b) of this subsection, the state ferry system may proceed with state ferry system operating strategies designed to achieve state ferry system objectives without established partnerships.

Sec. 3. RCW 47.60.150 and 1999 c 94 s 26 are each amended to read as follows:

Subject to the provisions of RCW 47.60.326, the schedule of charges for the services and facilities of the system shall be fixed and revised from time to time by the commission so that the tolls and other revenues deposited in the Puget Sound ferry operations 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 by the ferry system from any source shall be paid to the state treasurer for the account of the department and deposited into the Puget Sound ferry operations account. Nothing in this section requires tolls on the Hood Canal bridge except as may be required by any bond covenants.

Sec. 4. RCW 47.60.326 and 2001 1st sp.s. c 1 s 1 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, 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) The estimated revenues that are projected to be earned by the ferry system from commercial advertisements, parking, contracts, leases, and other sources;

(i) 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 revenues from the Puget Sound ferry operations 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.

(6) Under RCW 43.135.055, the transportation commission may increase ferry tolls included in the schedule of charges adopted under this section by a percentage that exceeds the fiscal growth factor.

(7) Notwithstanding the provisions of this section and chapter 81.28 RCW, and using sound business judgment, the chief executive officer of the ferry system may authorize the use of promotional, discounted, and special event fares to the general public and commercial enterprises for the purpose of maximizing capacity use and the revenues collected by the ferry system. The department shall report to the transportation commission a summary of the promotional, discounted, and special event fares offered during each fiscal year and the financial results from these activities.

Sec. 5. RCW 47.60.330 and 1983 c 15 s 26 are each amended to read as follows:

(1) Before a substantial expansion or curtailment in the level of service provided to ferry users, or a revision in the schedule of ferry tolls or charges, the department of transportation shall consult with affected ferry users. The consultation shall be: (a) By public hearing in affected local communities; (b) by review with the affected ferry advisory committees pursuant to RCW 47.60.310; (c) by conducting a survey of affected ferry users; or (d) by any combination of (a) through (c). Promotional, discount, and special event fares that are not part of the published schedule of ferry charges or tolls are exempt. The department shall report an accounting of all exempt revenues to the transportation commission each fiscal year.

(2) There is created a ferry system productivity council consisting of a representative of each ferry advisory committee empanelled under RCW 47.60.310, elected by the members thereof, and two representatives of employees of the ferry system appointed by mutual agreement of all of the unions representing ferry employees, which shall meet from time to time with ferry system management to discuss means of improving ferry system productivity.

(3) Before increasing ferry tolls the department of transportation shall consider all possible cost reductions with full public participation as provided in subsection (1) of this section and, consistent with public policy, shall consider adapting service levels equitably on a route-by-route basis to reflect trends in and forecasts of traffic usage. Forecasts of traffic levels shall be developed by the bond covenant traffic engineering firm appointed under the provisions of RCW 47.60.450. Provisions of this section shall not alter obligations under RCW 47.60.450. Before including any toll increase in a budget proposal by the

commission, the department of transportation shall consult with affected ferry users in the manner prescribed in (1)(b) of this section plus the procedure of either (1) (a) or (c) of this section.

Passed by the Senate April 25, 2003.

Passed by the House April 16, 2003.

Approved by the Governor May 20, 2003.

Filed in Office of Secretary of State May 20, 2003.

CHAPTER 375

[Senate Bill 6056]

AIRCRAFT—REGISTRATION

AN ACT Relating to fees, taxes, and penalties for pilots and aircraft; amending RCW 47.68.233, 47.68.234, 47.68.240, 47.68.250, and 82.42.020; repealing RCW 82.42.025; prescribing penalties; providing an effective date; and declaring an emergency.

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

Sec. 1. RCW 47.68.233 and 2000 c 176 s 1 are each amended to read as follows:

The department shall require that every pilot who is a resident of this state and every nonresident pilot who regularly operates any aircraft in this state be registered with the department. The department shall charge an annual fee (~~not to exceed ten dollars~~) of fifteen dollars for each registration. For the period of July 1, 2003, through June 30, 2005, seven dollars of each registration fee collected shall be deposited into the aeronautics account, to be used solely for airport maintenance. All registration certificates issued under this section shall be renewed annually during the month of the registrant's birthdate.

Except as provided in the paragraph above, the registration fee imposed by this section shall be used by the department for the purpose of (a) search and rescue of lost and downed aircraft and airmen under the direction and supervision of the secretary, (b) safety and education, and (c) volunteer recognition and support.

Registration shall be effected by filing with the department a certified written statement that contains the information reasonably required by the department. The department shall issue certificates of registration and in connection therewith shall prescribe requirements for the possession and exhibition of the certificates.

The provisions of this section do not apply to:

(1) A pilot who operates an aircraft exclusively in the service of any government or any political subdivision thereof, including the government of the United States, any state, territory, or possession of the United States, or the District of Columbia;

(2) A pilot registered under the laws of a foreign country;

(3) A pilot engaged exclusively in commercial flying constituting an act of interstate or foreign commerce;

(4) A person piloting an aircraft equipped with fully functioning dual controls when a licensed instructor is in full charge of one set of the controls and the flight is solely for instruction or for the demonstration of the aircraft to a bona fide prospective purchaser.

Failure to register as provided in this section is a violation of RCW 47.68.230 and subjects the offender to the penalties incident thereto.

Sec. 2. RCW 47.68.234 and 1993 c 208 s 3 are each amended to read as follows:

The department shall require that every airman or airwoman that is not registered under RCW 47.68.233 and who is a resident of this state, or every nonresident airman or airwoman who is regularly performing duties as an airman or airwoman within this state, be registered with the department. The department shall charge an annual fee (~~(not to exceed ten dollars)~~) of fifteen dollars for each registration. For the period of July 1, 2003, through June 30, 2005, seven dollars of which shall be deposited into the aeronautics account, to be used solely for airport maintenance. A registration certificate issued under this section is to be renewed annually during the month of the registrant's birthdate.

Except as provided in the paragraph above, the department shall use the registration fee imposed under this section for the purposes of: (1) Search and rescue of lost and downed aircraft and airmen or airwomen under the direction and supervision of the secretary; and (2) safety and education.

Registration is (~~affected [effected]~~) effected by filing with the department a certified written statement that contains the information reasonably required by the department. The department shall issue certificates of registration and, in connection with the certificates, shall provide requirements for the possession and exhibition of the certificates.

Failure to register as provided in this section is a violation of RCW 47.68.230 and subjects the offender to the penalties incident to this section.

Sec. 3. RCW 47.68.240 and 2000 c 229 s 2 are each amended to read as follows:

(1) Any person violating any of the provisions of this chapter, or any of the rules, regulations, or orders issued pursuant thereto, shall be guilty of a misdemeanor and shall be punished as provided under chapter 9A.20 RCW, except that any person violating any of the provisions of RCW 47.68.220, 47.68.230, or 47.68.255 shall be guilty of a gross misdemeanor which shall be punished as provided under chapter 9A.20 RCW. In addition to, or in lieu of, the penalties provided in this section, or as a condition to the suspension of a sentence which may be imposed pursuant thereto, for violations of RCW 47.68.220 and 47.68.230, the court in its discretion may prohibit the violator from operating an aircraft within the state for such period as it may determine but not to exceed one year. Violation of the duly imposed prohibition of the court may be treated as a separate offense under this section or as a contempt of court.

(2) In addition to the provisions of subsection (1) of this section, failure to register an aircraft, as required by this chapter is subject to the following civil penalties:

(a) If the aircraft registration is sixty days to one hundred nineteen days past due, the civil penalty is one hundred dollars.

(b) If the aircraft registration is one hundred twenty days to one hundred eighty days past due, the civil penalty is two hundred dollars.

(c) If the aircraft registration is over one hundred eighty days past due, the civil penalty is four hundred dollars.

(3) In addition to the provisions in subsection (1) of this section, failure to register as a pilot, airman, or airwoman, as required by this chapter, is subject to a civil penalty of four times the fees that are due. If the pilot registration is sixty days past due, the pilot, airman, or airwoman is subject to the civil penalty of four times the fees that are due.

(4) The revenue from penalties prescribed in subsection (2) of this section must be deposited into the aeronautics account under RCW 82.42.090. The revenue from penalties prescribed in subsection (3) of this section must be deposited into the aircraft search and rescue safety and education account under RCW 47.68.236.

Sec. 4. RCW 47.68.250 and 1999 c 302 s 2 are each amended to read as follows:

Every aircraft shall be registered with the department for each calendar year in which the aircraft is operated or is based within this state. A fee of ~~((eight))~~ fifteen dollars shall be charged for each such registration and each annual renewal thereof.

Possession of the appropriate effective federal certificate, permit, rating, or license relating to ownership and airworthiness of the aircraft, and payment of the excise tax imposed by Title 82 RCW for the privilege of using the aircraft within this state during the year for which the registration is sought, and payment of the registration fee required by this section shall be the only requisites for registration of an aircraft under this section.

The registration fee imposed by this section shall be payable to and collected by the secretary. The fee for any calendar year must be paid during the month of January, and shall be collected by the secretary at the time of the collection by him or her of the said excise tax. If the secretary is satisfied that the requirements for registration of the aircraft have been met, he or she shall thereupon issue to the owner of the aircraft a certificate of registration therefor. The secretary shall pay to the state treasurer the registration fees collected under this section, which registration fees shall be credited to the aeronautics account in the transportation fund.

It shall not be necessary for the registrant to provide the secretary with originals or copies of federal certificates, permits, ratings, or licenses. The secretary shall issue certificates of registration, or such other evidences of registration or payment of fees as he or she may deem proper; and in connection therewith may prescribe requirements for the possession and exhibition of such certificates or other evidences.

The provisions of this section shall not apply to:

(1) An aircraft owned by and used exclusively in the service of any government or any political subdivision thereof, including the government of the United States, any state, territory, or possession of the United States, or the District of Columbia, which is not engaged in carrying persons or property for commercial purposes;

(2) An aircraft registered under the laws of a foreign country;

(3) An aircraft which is owned by a nonresident and registered in another state: PROVIDED, That if said aircraft shall remain in and/or be based in this

state for a period of ninety days or longer it shall not be exempt under this section;

(4) An aircraft engaged principally in commercial flying constituting an act of interstate or foreign commerce;

(5) An aircraft owned by the commercial manufacturer thereof while being operated for test or experimental purposes, or for the purpose of training crews for purchasers of the aircraft;

(6) An aircraft being held for sale, exchange, delivery, test, or demonstration purposes solely as stock in trade of an aircraft dealer licensed under Title 14 RCW;

(7) An aircraft based within the state that is in an unairworthy condition, is not operated within the registration period, and has obtained a written exemption issued by the secretary.

The secretary shall be notified within ~~((one week))~~ thirty days of any change in ownership of a registered aircraft. The notification shall contain the N, NC, NR, NL, or NX number of the aircraft, the full name and address of the former owner, and the full name and address of the new owner. For failure to so notify the secretary, the registration of that aircraft may be canceled by the secretary, subject to reinstatement upon application and payment of a reinstatement fee of ten dollars by the new owner.

~~((A municipality or port district that owns, operates, or leases an airport, as defined in RCW 47.68.020, with the intent to operate, shall require from an aircraft owner proof of aircraft registration or proof of intent to register an aircraft as a condition of leasing or selling tiedown or hangar space for an aircraft. The airport shall inform the lessee or purchaser of the tiedown or hangar space of the state law requiring registration and direct the person to comply with the state law if the person has not already done so. The airport may lease or sell tiedown or hangar space to owners of nonregistered aircraft after presenting them with the appropriate state registration forms. It is then the responsibility of the lessee or purchaser to register the aircraft. The airport shall report to the department's aviation division at the end of each month, the names, addresses, and "N" numbers of those aircraft owners not yet registered))~~ A municipality or port district that owns, operates, or leases an airport, as defined in RCW 47.68.020, with the intent to operate, shall require from an aircraft owner proof of aircraft registration as a condition of leasing or selling tiedown or hangar space for an aircraft. It is the responsibility of the lessee or purchaser to register the aircraft. The airport shall work with the aviation division to assist in its efforts to register aircraft by providing information about based aircraft on an annual basis as requested by the division.

Sec. 5. RCW 82.42.020 and 1996 c 104 s 13 are each amended to read as follows:

There is hereby levied, and there shall be collected by every distributor of aircraft fuel, an excise tax at the rate ~~((computed under RCW 82.42.025))~~ of ten cents on each gallon of aircraft fuel sold, delivered or used in this state: PROVIDED HOWEVER, That such aircraft fuel excise tax shall not apply to fuel for aircraft that both operate from a private, non-state-funded airfield during at least ninety-five percent of the aircraft's normal use and are used principally for the application of pesticides, herbicides, or other agricultural chemicals and shall not apply to fuel for emergency medical air transport entities: PROVIDED

FURTHER, That there shall be collected from every consumer or user of aircraft fuel either the use tax imposed by RCW 82.12.020, as amended, or the retail sales tax imposed by RCW 82.08.020, as amended, collection procedure to be as prescribed by law and/or rule or regulation of the department of revenue. The taxes imposed by this chapter shall be collected and paid to the state but once in respect to any aircraft fuel.

The tax required by this chapter, to be collected by the seller, is held in trust by the seller until paid to the department, and a seller who appropriates or converts the tax collected to his or her own use or to any use other than the payment of the tax to the extent that the money required to be collected is not available for payment on the due date as prescribed in this chapter is guilty of a felony, or gross misdemeanor in accordance with the theft and anticipatory provisions of Title 9A RCW. A person, partnership, corporation, or corporate officer who fails to collect the tax imposed by this section, or who has collected the tax and fails to pay it to the department in the manner prescribed by this chapter, is personally liable to the state for the amount of the tax.

NEW SECTION. Sec. 6. RCW 82.42.025 (Computation of aircraft fuel tax rate) and 1983 c 49 s 2 & 1982 1st ex.s. c 25 s 3 are each repealed.

NEW SECTION. Sec. 7. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2003.

Passed by the Senate April 27, 2003.

Passed by the House April 27, 2003.

Approved by the Governor May 20, 2003.

Filed in Office of Secretary of State May 20, 2003.

CHAPTER 376

[Senate Bill 5865]

RECREATION FACILITIES

AN ACT Relating to recreation facilities; and amending RCW 36.100.030.

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

Sec. 1. RCW 36.100.030 and 1999 c 165 s 16 are each amended to read as follows:

(1) A public facilities district is authorized to acquire, construct, own, remodel, maintain, equip, reequip, repair, and operate (a) sports facilities, entertainment facilities, convention facilities, or regional centers as defined in RCW 35.57.020, and (b) for districts formed after January 1, 2000, recreational facilities other than ski areas, together with contiguous parking facilities. The taxes that are provided for in this chapter may only be imposed for these purposes.

(2) A public facilities district may enter into agreements under chapter 39.34 RCW for the joint provision and operation of such facilities and may enter into contracts under chapter 39.34 RCW where any party to the contract provides and operates such facilities for the other party or parties to the contract.

(3) Notwithstanding the establishment of a career, civil, or merit service system, a public ((facility {facilities})) facilities district may contract with a public or private entity for the operation or management of its public facilities.

(4) A public facilities district is authorized to use the supplemental alternative public works contracting procedures set forth in chapter 39.10 RCW in connection with the design, construction, reconstruction, remodel, or alteration of any of its public facilities.

(5) A public facilities district may impose charges and fees for the use of its facilities, and may accept and expend or use gifts, grants, and donations.

Passed by the Senate April 21, 2003.

Passed by the House April 11, 2003.

Approved by the Governor May 20, 2003.

Filed in Office of Secretary of State May 20, 2003.

CHAPTER 377

[Engrossed Substitute Senate Bill 5785]

NONHIGHWAY VEHICLES—USE

AN ACT Relating to the use of a vehicle on a nonhighway road or trail; and amending RCW 46.09.120.

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

Sec. 1. RCW 46.09.120 and 1979 ex.s. c 136 s 41 are each amended to read as follows:

(1) It is a traffic infraction for any person to operate any nonhighway vehicle:

(a) In such a manner as to endanger the property of another;

(b) On lands not owned by the operator or owner of the nonhighway vehicle without a lighted headlight and taillight between the hours of dusk and dawn, or when otherwise required for the safety of others regardless of ownership;

(c) On lands not owned by the operator or owner of the nonhighway vehicle without an adequate braking device or when otherwise required for the safety of others regardless of ownership;

(d) Without a spark arrester approved by the department of natural resources;

(e) Without an adequate, and operating, muffling device which effectively limits vehicle noise to no more than eighty-six decibels on the "A" scale at fifty feet as measured by the Society of Automotive Engineers (SAE) test procedure J 331a, except that a maximum noise level of one hundred and five decibels on the "A" scale at a distance of twenty inches from the exhaust outlet shall be an acceptable substitute in lieu of the Society of Automotive Engineers test procedure J 331a when measured:

(i) At a forty-five degree angle at a distance of twenty inches from the exhaust outlet;

(ii) With the vehicle stationary and the engine running at a steady speed equal to one-half of the manufacturer's maximum allowable ("red line") engine speed or where the manufacturer's maximum allowable engine speed is not known the test speed in revolutions per minute calculated as sixty percent of the speed at which maximum horsepower is developed; and

(iii) With the microphone placed ten inches from the side of the vehicle, one-half way between the lowest part of the vehicle body and the ground plane,

and in the same lateral plane as the rearmost exhaust outlet where the outlet of the exhaust pipe is under the vehicle;

(f) On lands not owned by the operator or owner of the nonhighway vehicle upon the shoulder or inside bank or slope of any nonhighway road or highway, or upon the median of any divided highway;

(g) On lands not owned by the operator or owner of the nonhighway vehicle in any area or in such a manner so as to unreasonably expose the underlying soil, or to create an erosion condition, or to injure, damage, or destroy trees, growing crops, or other vegetation;

(h) On lands not owned by the operator or owner of the nonhighway vehicle or on any nonhighway road or trail (~~which is~~), when these are restricted to pedestrian or animal travel; and

(i) On any public lands in violation of rules and regulations of the agency administering such lands.

(2) It is a misdemeanor for any person to operate any nonhighway vehicle while under the influence of intoxicating liquor or a controlled substance.

Passed by the Senate March 18, 2003.

Passed by the House April 16, 2003.

Approved by the Governor May 20, 2003.

Filed in Office of Secretary of State May 20, 2003.

CHAPTER 378

[Engrossed Substitute Senate Bill 5903]

JUVENILE SENTENCING

AN ACT Relating to juvenile offender sentences; amending RCW 13.40.160; reenacting and amending RCW 13.40.0357 and 13.40.165; adding a new section to chapter 72.05 RCW; adding new sections to chapter 13.40 RCW; creating new sections; and providing expiration dates.

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

****NEW SECTION. Sec. 1. A new section is added to chapter 72.05 RCW to read as follows:***

(1) It is the intent of the legislature that appropriate treatment services be provided to juvenile offenders in order to achieve rehabilitation. The treatment should be provided at either local detention facilities or at state institutions depending upon which facility best meets the needs of the individual juvenile offender.

(2) No juvenile rehabilitation administration institution shall be closed without specific authorization in an act of the legislature.

(3) If a juvenile rehabilitation administration institution is closed by the legislature, the department of corrections shall be prohibited from operating the institution and the institution shall not be used to incarcerate adult offenders.

****Sec. 1 was vetoed. See message at end of chapter.***

Sec. 2. RCW 13.40.0357 and 2002 c 324 s 3 and 2002 c 175 s 20 are each reenacted and amended to read as follows:

DESCRIPTION AND OFFENSE CATEGORY

JUVENILE DISPOSITION OFFENSE CATEGORY	DESCRIPTION (RCW CITATION)	JUVENILE DISPOSITION CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY, OR SOLICITATION
Arson and Malicious Mischief		
A	Arson 1 (9A.48.020)	B+
B	Arson 2 (9A.48.030)	C
C	Reckless Burning 1 (9A.48.040)	D
D	Reckless Burning 2 (9A.48.050)	E
B	Malicious Mischief 1 (9A.48.070)	C
C	Malicious Mischief 2 (9A.48.080)	D
D	Malicious Mischief 3 (<\$50 is E class) (9A.48.090)	E
E	Tampering with Fire Alarm Apparatus (9.40.100)	E
A	Possession of Incendiary Device (9.40.120)	B+
Assault and Other Crimes Involving Physical Harm		
A	Assault 1 (9A.36.011)	B+
B+	Assault 2 (9A.36.021)	C+
C+	Assault 3 (9A.36.031)	D+
D+	Assault 4 (9A.36.041)	E
B+	Drive-By Shooting (9A.36.045)	C+
D+	Reckless Endangerment (9A.36.050)	E
C+	Promoting Suicide Attempt (9A.36.060)	D+
D+	Coercion (9A.36.070)	E
C+	Custodial Assault (9A.36.100)	D+
Burglary and Trespass		
B+	Burglary 1 (9A.52.020)	C+
B	Residential Burglary (9A.52.025)	C
B	Burglary 2 (9A.52.030)	C
D	Burglary Tools (Possession of) (9A.52.060)	E
D	Criminal Trespass 1 (9A.52.070)	E
E	Criminal Trespass 2 (9A.52.080)	E
C	Vehicle Prowling 1 (9A.52.095)	D
D	Vehicle Prowling 2 (9A.52.100)	E
Drugs		
E	Possession/Consumption of Alcohol (66.44.270)	E
C	Illegally Obtaining Legend Drug (69.41.020)	D

C+	Sale, Delivery, Possession of Legend Drug with Intent to Sell (69.41.030)	D+
E	Possession of Legend Drug (69.41.030)	E
B+	Violation of Uniform Controlled Substances Act - Narcotic, Methamphetamine, or Flunitrazepam Sale (69.50.40I(a)(1) (i) or (ii))	B+
C	Violation of Uniform Controlled Substances Act - Nonnarcotic Sale (69.50.40I(a)(1)(iii))	C
E	Possession of Marihuana <40 grams (69.50.40I(e))	E
C	Fraudulently Obtaining Controlled Substance (69.50.403)	C
C+	Sale of Controlled Substance for Profit (69.50.4I0)	C+
E	Unlawful Inhalation (9.47A.020)	E
B	Violation of Uniform Controlled Substances Act - Narcotic, Methamphetamine, or Flunitrazepam Counterfeit Substances (69.50.40I(b)(1) (i) or (ii))	B
C	Violation of Uniform Controlled Substances Act - Nonnarcotic Counterfeit Substances (69.50.40I(b)(1) (iii), (iv), (v))	C
C	Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.40I(d))	C
C	Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.40I(c))	C
Firearms and Weapons		
B	Theft of Firearm (9A.56.300)	C
B	Possession of Stolen Firearm (9A.56.310)	C
E	Carrying Loaded Pistol Without Permit (9.41.050)	E
C	Possession of Firearms by Minor (<18) (9.41.040(1)(b)(iii))	C
D+	Possession of Dangerous Weapon (9.41.250)	E
D	Intimidating Another Person by use of Weapon (9.41.270)	E
Homicide		
A+	Murder 1 (9A.32.030)	A
A+	Murder 2 (9A.32.050)	B+
B+	Manslaughter 1 (9A.32.060)	C+

C+	Manslaughter 2 (9A.32.070)	D+
B+	Vehicular Homicide (46.61.520)	C+

Kidnapping

A	Kidnap 1 (9A.40.020)	B+
B+	Kidnap 2 (9A.40.030)	C+
C+	Unlawful Imprisonment (9A.40.040)	D+

Obstructing Governmental Operation

D	Obstructing a Law Enforcement Officer (9A.76.020)	E
E	Resisting Arrest (9A.76.040)	E
B	Introducing Contraband 1 (9A.76.140)	C
C	Introducing Contraband 2 (9A.76.150)	D
E	Introducing Contraband 3 (9A.76.160)	E
B+	Intimidating a Public Servant (9A.76.180)	C+
B+	Intimidating a Witness (9A.72.110)	C+

Public Disturbance

C+	Riot with Weapon (9A.84.010)	D+
D+	Riot Without Weapon (9A.84.010)	E
E	Failure to Disperse (9A.84.020)	E
E	Disorderly Conduct (9A.84.030)	E

Sex Crimes

A	Rape 1 (9A.44.040)	B+
A-	Rape 2 (9A.44.050)	B+
C+	Rape 3 (9A.44.060)	D+
A-	Rape of a Child 1 (9A.44.073)	B+
B+	Rape of a Child 2 (9A.44.076)	C+
B	Incest 1 (9A.64.020(1))	C
C	Incest 2 (9A.64.020(2))	D
D+	Indecent Exposure (Victim <14) (9A.88.010)	E
E	Indecent Exposure (Victim 14 or over) (9A.88.010)	E
B+	Promoting Prostitution 1 (9A.88.070)	C+
C+	Promoting Prostitution 2 (9A.88.080)	D+
E	O & A (Prostitution) (9A.88.030)	E
B+	Indecent Liberties (9A.44.100)	C+
A-	Child Molestation 1 (9A.44.083)	B+
B	Child Molestation 2 (9A.44.086)	C+

Theft, Robbery, Extortion, and Forgery

B	Theft 1 (9A.56.030)	C
C	Theft 2 (9A.56.040)	D
D	Theft 3 (9A.56.050)	E
B	Theft of Livestock (9A.56.080)	C

C	Forgery (9A.60.020)	D
A	Robbery 1 (9A.56.200)	B+
B+	Robbery 2 (9A.56.210)	C+
B+	Extortion 1 (9A.56.120)	C+
C+	Extortion 2 (9A.56.130)	D+
C	Identity Theft 1 (9.35.020(2)(a))	D
D	Identity Theft 2 (9.35.020(2)(b))	E
D	Improperly Obtaining Financial Information (9.35.010)	E
B	Possession of Stolen Property 1 (9A.56.150)	C
C	Possession of Stolen Property 2 (9A.56.160)	D
D	Possession of Stolen Property 3 (9A.56.170)	E
C	Taking Motor Vehicle Without Permission 1 and 2 (9A.56.070 (1) and (2))	D
Motor Vehicle Related Crimes		
E	Driving Without a License (46.20.005)	E
B+	Hit and Run - Death (46.52.020(4)(a))	C+
C	Hit and Run - Injury (46.52.020(4)(b))	D
D	Hit and Run-Attended (46.52.020(5))	E
E	Hit and Run-Unattended (46.52.010)	E
C	Vehicular Assault (46.61.522)	D
C	Attempting to Elude Pursuing Police Vehicle (46.61.024)	D
E	Reckless Driving (46.61.500)	E
D	Driving While Under the Influence (46.61.502 and 46.61.504)	E
Other		
B	Bomb Threat (9.61.160)	C
C	Escape 1 ¹ (9A.76.110)	C
C	Escape 2 ¹ (9A.76.120)	C
D	Escape 3 (9A.76.130)	E
E	Obscene, Harassing, Etc., Phone Calls (9.61.230)	E
A	Other Offense Equivalent to an Adult Class A Felony	B+
B	Other Offense Equivalent to an Adult Class B Felony	C
C	Other Offense Equivalent to an Adult Class C Felony	D
D	Other Offense Equivalent to an Adult Gross Misdemeanor	E

E	Other Offense Equivalent to an Adult Misdemeanor	E
V	Violation of Order of Restitution, Community Supervision, or Confinement (13.40.200) ²	V

¹Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses and the standard range is established as follows:

1st escape or attempted escape during 12-month period - 4 weeks confinement

2nd escape or attempted escape during 12-month period - 8 weeks confinement

3rd and subsequent escape or attempted escape during 12-month period - 12 weeks confinement

²If the court finds that a respondent has violated terms of an order, it may impose a penalty of up to 30 days of confinement.

JUVENILE SENTENCING STANDARDS

This schedule must be used for juvenile offenders. The court may select sentencing option A, B, ((~~C~~)) C, D, or section 4 of this act.

**OPTION A
JUVENILE OFFENDER SENTENCING GRID
STANDARD RANGE**

A+	180 WEEKS TO AGE 21 YEARS				
A	103 WEEKS TO 129 WEEKS				
A-	15-36 WEEKS EXCEPT 30-40 WEEKS FOR 15-17 YEAR OLDS	52-65 WEEKS	80-100 WEEKS	103-129 WEEKS	
Current Offense Category	B+	15-36 WEEKS	52-65 WEEKS	80-100 WEEKS	103-129 WEEKS
B	LOCAL SANCTIONS (LS)	15-36 WEEKS		52-65 WEEKS	
C+	LS	15-36 WEEKS			
C	LS	15-36 WEEKS			
D+	LS	Local Sanctions: 0 to 30 Days			
D	LS	0 to 12 Months Community Supervision 0 to 150 Hours Community Restitution \$0 to \$500 Fine			

E LS

0	1	2	3	4 or more
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PRIOR ADJUDICATIONS

NOTE: References in the grid to days or weeks mean periods of confinement.

(1) The vertical axis of the grid is the current offense category. The current offense category is determined by the offense of adjudication.

(2) The horizontal axis of the grid is the number of prior adjudications included in the juvenile's criminal history. Each prior felony adjudication shall count as one point. Each prior violation, misdemeanor, and gross misdemeanor adjudication shall count as 1/4 point. Fractional points shall be rounded down.

(3) The standard range disposition for each offense is determined by the intersection of the column defined by the prior adjudications and the row defined by the current offense category.

(4) RCW 13.40.180 applies if the offender is being sentenced for more than one offense.

(5) A current offense that is a violation is equivalent to an offense category of E. However, a disposition for a violation shall not include confinement.

OR

OPTION B

SUSPENDED DISPOSITION ALTERNATIVE

(1) If the offender is subject to a standard range disposition involving confinement by the department, the court may impose the standard range and suspend the disposition on condition that the offender comply with one or more local sanctions and any educational or treatment requirement. The treatment programs provided to the offender must be research-based best practice programs as identified by the Washington state institute for public policy or the joint legislative audit and review committee.

(2) If the offender fails to comply with the suspended disposition, the court may impose sanctions pursuant to RCW 13.40.200 or may revoke the suspended disposition and order the disposition's execution.

(3) An offender is ineligible for the suspended disposition option under this section if the offender is:

(a) Adjudicated of an A+ offense;

(b) Fourteen years of age or older and is adjudicated of one or more of the following offenses:

(i) A class A offense, or an attempt, conspiracy, or solicitation to commit a class A offense;

(ii) Manslaughter in the first degree (RCW 9A.32.060); or

(iii) Assault in the second degree (RCW 9A.36.021), extortion in the first degree (RCW 9A.56.120), kidnapping in the second degree (RCW 9A.40.030), robbery in the second degree (RCW 9A.56.210), residential burglary (RCW 9A.52.025), burglary in the second degree (RCW 9A.52.030), drive-by shooting (RCW 9A.36.045), vehicular homicide (RCW 46.61.520), hit and run death (RCW 46.52.020(4)(a)), intimidating a witness (RCW 9A.72.110), violation of the uniform controlled substances act (RCW 69.50.401(a)(1) (i) or (ii)), or

manslaughter 2 (RCW 9A.32.070), when the offense includes infliction of bodily harm upon another or when during the commission or immediate withdrawal from the offense the respondent was armed with a deadly weapon;

(c) Ordered to serve a disposition for a firearm violation under RCW 13.40.193; or

(d) Adjudicated of a sex offense as defined in RCW 9.94A.030.

OR

OPTION C

CHEMICAL DEPENDENCY DISPOSITION ALTERNATIVE

If the juvenile offender is subject to a standard range disposition of local sanctions or 15 to 36 weeks of confinement and has not committed an A- or B+ offense, the court may impose a disposition under RCW 13.40.160(4) and 13.40.165.

OR

OPTION ((C)) D

MANIFEST INJUSTICE

If the court determines that a disposition under option A (~~((C))~~), B, or C would effectuate a manifest injustice, the court shall impose a disposition outside the standard range under RCW 13.40.160(2).

Sec. 3. RCW 13.40.160 and 2002 c 175 s 22 are each amended to read as follows:

(1) The standard range disposition for a juvenile adjudicated of an offense is determined according to RCW 13.40.0357.

(a) When the court sentences an offender to a local sanction as provided in RCW 13.40.0357 option A, the court shall impose a determinate disposition within the standard ranges, except as provided in subsection((s)) (2), (3), (~~and~~) (4), (5), or (6) of this section. The disposition may be comprised of one or more local sanctions.

(b) When the court sentences an offender to a standard range as provided in RCW 13.40.0357 option A that includes a term of confinement exceeding thirty days, commitment shall be to the department for the standard range of confinement, except as provided in subsection((s)) (2), (3), (~~and~~) (4), (5), or (6) of this section.

(2) 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 ((C)) D of RCW 13.40.0357. The court's finding of manifest injustice shall be supported by clear and convincing evidence.

A disposition outside the standard range shall be determinate and shall be comprised of confinement or community supervision, or a combination thereof. When a judge finds a manifest injustice and imposes a sentence of confinement exceeding thirty days, the court shall sentence the juvenile to a maximum term, and the provisions of RCW 13.40.030(2) shall be used to determine the range. A

disposition outside the standard range is appealable under RCW 13.40.230 by the state or the respondent. A disposition within the standard range is not appealable under RCW 13.40.230.

(3) When a juvenile 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, or if the court concludes, and enters reasons for its conclusions, that such disposition would cause a manifest injustice, the court shall impose a disposition under option ((C)) D, and the court may suspend the execution of the disposition and place the offender on community supervision for at least 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 restitution, or any combination thereof;

(vii) Make restitution to the victim for the cost of any counseling reasonably related to the offense;

(viii) Comply with the conditions of any court-ordered probation bond; or

(ix) The court shall order that the offender may not attend the public or approved private elementary, middle, or high school attended by the victim or the victim's siblings. The parents or legal guardians of the offender are responsible for transportation or other costs associated with the offender's change of school that would otherwise be paid by the school district. The court shall send notice of the disposition and restriction on attending the same school as the victim or victim's siblings to the public or approved private school the juvenile will attend, if known, or if unknown, to the approved private schools and the public school district board of directors of the district in which the juvenile resides or intends to reside. This notice must be sent at the earliest possible date but not later than ten calendar days after entry of the disposition.

The sex offender treatment provider shall submit quarterly reports on the respondent's progress in treatment to the court and the parties. The reports shall reference the treatment plan and include at a minimum the following: Dates of attendance, respondent's compliance with requirements, treatment activities, the respondent's relative progress in treatment, and any other material specified by the court at the time of the disposition.

At the time of the disposition, the court may set treatment review hearings as the court considers appropriate.

Except as provided in this subsection (3), after July 1, 1991, examinations and treatment ordered pursuant to this subsection shall only be conducted by sex offender treatment providers certified by the department of health pursuant to chapter 18.155 RCW. A sex offender therapist who examines or treats a juvenile sex offender pursuant to this subsection does not have to be certified by the department of health pursuant to chapter 18.155 RCW if the court finds that: (A) The offender has already moved to another state or plans to move to another state for reasons other than circumventing the certification requirements; (B) no certified providers are available for treatment within a reasonable geographical distance of the offender's home; and (C) the evaluation and treatment plan comply with this subsection (3) and the rules adopted by the department of health.

If the offender violates any condition of the disposition or the court finds that the respondent is failing to make satisfactory progress in treatment, the court may revoke the suspension and order execution of the disposition or the court may impose a penalty of up to thirty days' confinement for violating conditions of the disposition. The court may order both execution of the disposition and up to thirty days' confinement for the violation of the conditions of the disposition. The court shall give credit for any confinement time previously served if that confinement was for the offense for which the suspension is being revoked.

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

A disposition entered under this subsection (3) is not appealable under RCW 13.40.230.

(4) If the juvenile offender is subject to a standard range disposition of local sanctions or 15 to 36 weeks of confinement and has not committed an A- or B+ offense, the court may impose the disposition alternative under RCW 13.40.165.

(5) If a juvenile is subject to a commitment of 15 to 65 weeks of confinement, the court may impose the disposition alternative under section 4 of this act.

(6) When the offender is subject to a standard range commitment of 15 to 36 weeks and is ineligible for a suspended disposition alternative, a manifest injustice disposition below the standard range, special sex offender disposition alternative, chemical dependency disposition alternative, or mental health disposition alternative, the court in a county with a pilot program under section 5 of this act may impose the disposition alternative under section 5 of this act.

(7) RCW 13.40.193 shall govern the disposition of any juvenile adjudicated of possessing a firearm in violation of RCW 9A.1.040(1)(b)(iii) or any crime in which a special finding is entered that the juvenile was armed with a firearm.

~~((6))~~ (8) Whenever a juvenile offender is entitled to credit for time spent in detention prior to a dispositional order, the dispositional order shall specifically state the number of days of credit for time served.

~~((7))~~ (9) Except as provided under subsection (3) ~~((6))~~, (4), (5), or (6) of this section, or option B of RCW 13.40.0357, or RCW 13.40.127, the court shall not suspend or defer the imposition or the execution of the disposition.

~~((8))~~ (10) 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.

NEW SECTION. Sec. 4. A new section is added to chapter 13.40 RCW to read as follows:

(1) When an offender is subject to a standard range commitment of 15 to 65 weeks, the court may:

(a) Impose the standard range; or

(b) Suspend the standard range disposition on condition that the offender complies with the terms of this mental health disposition alternative.

(2) The court may impose this disposition alternative when the court finds the following:

(a) The offender has a current diagnosis, consistent with the American psychiatry association diagnostic and statistical manual of mental disorders, of axis I psychiatric disorder, excluding youth that are diagnosed as solely having a conduct disorder, oppositional defiant disorder, substance abuse disorder, paraphilia, or pedophilia;

(b) An appropriate treatment option is available in the local community;

(c) The plan for the offender identifies and addresses requirements for successful participation and completion of the treatment intervention program including: Incentives and graduated sanctions designed specifically for amenable youth, including the use of detention, detoxication, and in-patient or outpatient substance abuse treatment and psychiatric hospitalization, and structured community support consisting of mental health providers, probation, educational and vocational advocates, child welfare services, and family and community support. For any mental health treatment ordered for an offender under this section, the treatment option selected shall be chosen from among programs which have been successful in addressing mental health needs of juveniles and successful in mental health treatment of juveniles and identified as research-based best practice programs. A list of programs which meet these criteria shall be agreed upon by: The Washington association of juvenile court administrators, the juvenile rehabilitation administration of the department of social and health services, a representative of the division of public behavioral health and justice policy at the University of Washington, and the Washington institute for public policy. The list of programs shall be created not later than July 1, 2003. The group shall provide the list to all superior courts, its own membership, the legislature, and the governor. The group shall meet annually and revise the list as appropriate; and

(d) The offender, offender's family, and community will benefit from use of the mental health disposition alternative.

(3) The court on its own motion may order, or on motion by either party, shall order a comprehensive mental health evaluation to determine if the offender has a designated mental disorder. The court may also order a chemical dependency evaluation to determine if the offender also has a co-occurring chemical dependency disorder. The evaluation shall include at a minimum the following: The offender's version of the facts and the official version of the facts, the offender's offense, an assessment of the offender's mental health and drug-alcohol problems and previous treatment attempts, and the offender's social, criminal, educational, and employment history and living situation.

(4) The evaluator shall determine if the offender is amenable to research-based treatment. A proposed case management and treatment plan shall include at a minimum:

(a) The availability of treatment;

(b) Anticipated length of treatment;

(c) Whether one or more treatment interventions are proposed and the anticipated sequence of those treatment interventions;

(d) The education plan;

(e) The residential plan; and

(f) The monitoring plan.

(5) The court on its own motion may order, or on motion by either party, shall order a second mental health or chemical dependency evaluation. The

party making the motion shall select the evaluator. The requesting party shall pay the cost of any examination ordered under this subsection and subsection (3) of this section unless the court finds the offender is indigent and no third party insurance coverage is available, in which case the state shall pay the cost.

(6) Upon receipt of the assessments, evaluations, and reports the court shall consider whether the offender and the community will benefit from use of the mental health disposition alternative. The court shall consider the victim's opinion whether the offender should receive the option.

(7) If the court determines that the mental health disposition alternative is appropriate, the court shall impose a standard range disposition of not more than 65 weeks, suspend execution of the disposition, and place the offender on community supervision up to one year and impose one or more other local sanctions. Confinement in a secure county detention facility, other than county group homes, inpatient psychiatric treatment facilities, and substance abuse programs, shall be limited to thirty days. As a condition of a suspended disposition, the court shall require the offender to participate in the recommended treatment interventions.

(8) The treatment providers shall submit monthly reports to the court and parties on the offender's progress in treatment. The report shall reference the treatment plan and include at a minimum the following: Dates of attendance, offender's compliance with requirements, treatment activities, medication management, the offender's relative progress in treatment, and any other material specified by the court at the time of the disposition.

(9) If the offender fails to comply with the suspended disposition, the court may impose sanctions pursuant to RCW 13.40.200 or may revoke the suspended disposition and order the disposition's execution.

(10) An offender is ineligible for the mental health disposition option under this section if the offender is adjudicated of a sex or violent offense as defined in RCW 9.94A.030.

NEW SECTION. Sec. 5. A new section is added to chapter 13.40 RCW to read as follows:

Any charter county with a population of not more than seventy thousand shall establish a pilot program to implement the community commitment disposition alternative contained in this section. The pilot project shall be limited to five beds.

(1) When the offender is subject to a standard range commitment of 15 to 36 weeks and is ineligible for a suspended disposition alternative, a manifest injustice disposition below the standard range, special sex offender disposition alternative, chemical dependency disposition alternative, or mental health disposition alternative, the court in a county with a pilot program under this section may impose a community commitment disposition alternative and:

(a) Retain juvenile court jurisdiction over the youth;

(b) Confine the youth in a county detention facility for a period of time not to exceed thirty days; and

(c) Impose a term of postrelease community supervision for up to one year.

If the youth receives a standard range disposition, the court shall set the release date within the standard range. The court shall determine the release date prior to expiration of sixty percent of the juvenile's minimum term of confinement.

(2) The court may impose this community commitment disposition alternative if the court finds the following:

(a) Placement in a local detention facility in close proximity to the youth's family or local support systems will facilitate a smoother reintegration to the youth's family and community;

(b) Placement in the local detention facility will allow the youth to benefit from locally provided family intervention programs and other research-based treatment programs, school, employment, and drug and alcohol or mental health counseling; or

(c) Confinement in a facility operated by the department would result in a negative disruption to local services, school, or employment or impede or delay developing those services and support systems in the community.

(3) The court shall consider the youth's offense, prior criminal history, security classification, risk level, and treatment needs and history when determining whether the youth is appropriate for the community commitment disposition alternative. If the court finds that a community commitment disposition alternative is appropriate, the court shall order the youth into secure detention while the details of the reintegration program are developed.

(4) Upon approval of the treatment and community reintegration plan, the court may order the youth to serve the term of confinement in one or more of the following placements or combination of placements: Secure detention, an alternative to secure detention such as electronic home monitoring, county group care, day or evening reporting, or home detention. The court may order the youth to serve time in detention on weekends or intermittently. The court shall set periodic reviews to review the youth's progress in the program. At least fifty percent of the term of confinement shall be served in secure detention.

(5) If the youth violates the conditions of the community commitment program, the court may impose sanctions under RCW 13.40.200 or modify the terms of the reintegration plan and order the youth to serve all or a portion of the remaining confinement term in secure detention.

(6) A county may enter into interlocal agreements with other counties to develop joint community commitment programs or to allow one county to send a youth appropriate for this alternative to another county that has a community commitment program.

(7) Implementation of this alternative is subject to available state funding for the costs of the community commitment program, including costs of detention and community supervision.

The Washington association of juvenile court administrators shall submit an interim report on the pilot program established in this section to the legislature and appropriate committees by December 31, 2004, and submit a final report to the legislature and the appropriate committees by June 30, 2005.

This section expires July 1, 2005.

Sec. 6. RCW 13.40.165 and 2002 c 175 s 23 and 2002 c 42 s 1 are each reenacted and amended to read as follows:

(1) The purpose of this disposition alternative is to ensure that successful treatment options to reduce recidivism are available to eligible youth, pursuant to RCW 70.96A.520. The court must consider eligibility for the chemical dependency disposition alternative when a juvenile offender is subject to a standard range disposition of local sanctions or 15 to 36 weeks of confinement

and has not committed an A-or B+ offense, other than a first time B+ offense under chapter 69.50 RCW. The court, on its own motion or the motion of the state or the respondent if the evidence shows that the offender may be chemically dependent or substance abusing, may order an examination by a chemical dependency counselor from a chemical dependency treatment facility approved under chapter 70.96A RCW to determine if the youth is chemically dependent or substance abusing. The offender shall pay the cost of any examination ordered under this subsection unless the court finds that the offender is indigent and no third party insurance coverage is available, in which case the state shall pay the cost.

(2) 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 drug-alcohol problems and previous treatment attempts, the respondent's social, educational, and employment situation, and other evaluation measures used. The report shall set forth the sources of the examiner's information.

(3) The examiner shall assess and report regarding the respondent's relative risk to the community. A proposed treatment plan shall be provided and shall include, at a minimum:

- (a) Whether inpatient and/or outpatient treatment is recommended;
- (b) Availability of appropriate treatment;
- (c) Monitoring plans, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members, legal guardians, or others;
- (d) Anticipated length of treatment; and
- (e) Recommended crime-related prohibitions.

(4) The court on its own motion may order, or on a motion by the state or the respondent shall order, a second examination. The evaluator shall be selected by the party making the motion. The requesting party shall pay the cost of any examination ordered under this subsection unless the requesting party is the offender and the court finds that the offender is indigent and no third party insurance coverage is available, in which case the state shall pay the cost.

(5)(a) After receipt of reports of the examination, the court shall then consider whether the offender and the community will benefit from use of this chemical dependency disposition alternative and consider the victim's opinion whether the offender should receive a treatment disposition under this section.

(b) If the court determines that this chemical dependency disposition alternative is appropriate, then the court shall impose the standard range for the offense, or if the court concludes, and enters reasons for its conclusion, that such disposition would effectuate a manifest injustice, the court shall impose a disposition above the standard range as indicated in option ((€)) D of RCW 13.40.0357 if the disposition is an increase from the standard range and the confinement of the offender does not exceed a maximum of fifty-two weeks, suspend execution of the disposition, and place the offender on community supervision for up to one year. As a condition of the suspended disposition, the court shall require the offender to undergo available outpatient drug/alcohol treatment and/or inpatient drug/alcohol treatment. For purposes of this section, inpatient treatment may not exceed ninety days. As a condition of the suspended disposition, the court may impose conditions of community supervision and

other sanctions, including up to thirty days of confinement, one hundred fifty hours of community restitution, and payment of legal financial obligations and restitution.

(6) The drug/alcohol treatment provider shall submit monthly 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.

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 impose sanctions pursuant to RCW 13.40.200 or revoke the suspension and order execution of the disposition. The court shall give credit for any confinement time previously served if that confinement was for the offense for which the suspension is being revoked.

(7) 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 offense charged.

(8) 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.

(9) In no case shall the term of confinement imposed by the court at disposition exceed that to which an adult could be subjected for the same offense.

(10) A disposition under this section is not appealable under RCW 13.40.230.

NEW SECTION. Sec. 7. Because model adherence and competent delivery of research-based intervention programs is critical for reducing recidivism, the Washington state institute for public policy shall develop adherence and outcome standards for measuring effectiveness of treatment programs referred to in this act. The standards shall be developed and presented to the governor and legislature no later than January 1, 2004. The standards shall include methods for measuring competent delivery of interventions as well as success factors following treatment. The standards shall include, but not be limited to hiring, training and retaining qualified providers, managing and overseeing the delivery of treatment services, and developing quality assurance measures. The department shall utilize these standards to assess program effectiveness. The courts shall also utilize these standards in determining their continued use of these alternatives. The courts shall not continue to use programs that do not comply with these standards.

NEW SECTION. Sec. 8. (1) A task force is created for the purpose of examining the coordination of information, education services, and matters of public safety when juvenile offenders are placed into public schools, following their conviction.

(2) The task force shall be chaired by the superintendent of public instruction and include a representative from the juvenile rehabilitation

administration of the department of social and health services, the state board of education, associations which represent school teachers, administrators, and school boards, superior court judges, the Washington association of juvenile court administrators, prosecuting attorneys, the governor, attorneys whose practice includes criminal defense work for juvenile defendants, three groups whose primary purpose is the delivery of services to families and children, and law enforcement. The three groups who deliver services shall be selected by the superintendent of public instruction.

(3) The task force shall identify specific policies and statutory, administrative, and practice processes and barriers that may operate to impede: (a) The identification and delivery of appropriate and coordinated services to juvenile offenders who are placed in, or returned to public schools following conviction of an offense; and (b) transmittal of information regarding juvenile offenders who are returned to, or placed in, public schools following conviction of an offense. The task force shall recommend specific statutory and administrative changes as it finds appropriate to eliminate or reduce the barriers identified as a result of this subsection (3).

(4) The task force shall report its findings and recommendations to the governor, the legislature, and the agencies represented on the task force not later than December 1, 2003.

NEW SECTION. Sec. 9. Sections 7 and 8 of this act expire December 31, 2003.

NEW SECTION. Sec. 10. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2003, in the omnibus appropriations act, this act is null and void.

Passed by the Senate April 27, 2003.

Passed by the House April 27, 2003.

Approved by the Governor May 20, 2003, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 20, 2003.

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

"I am returning herewith, without my approval as to section 1, Engrossed Substitute Senate Bill No. 5903 entitled:

"AN ACT Relating to juvenile offender sentences;"

This bill creates two new alternative juvenile sentences, and a pilot project for a third sentencing alternative.

Section 1 prohibits the closure of any Juvenile Rehabilitation Administration institution "without specific authorization in an act of the legislature." It further prohibits the use of any such institution, even if closed by the Legislature, by the Department of Corrections or to incarcerate adult offenders. I share these policy goals of not closing state institutions without the Legislature's concurrence, and not converting juvenile facilities into adult prisons. I have not proposed any such closures or conversions.

However, the Legislature has not yet adopted a budget for the next biennium, and there is no assurance that its next budget, or some future budget, will not make it necessary to consider closures as a means of administering programs within available resources. The Legislature creates the programs and provides the resources, but the executive branch must administer them, and should not be prohibited in permanent law from making difficult decisions that may be necessary.

For this reason, I have vetoed section 1 of Engrossed Substitute Senate Bill No. 5903.

With the exception of section 1, Engrossed Substitute Senate Bill No. 5903 is approved."

CHAPTER 379

[Engrossed Substitute Senate Bill 5990]

OFFENDERS—RELEASE

AN ACT Relating to times and supervision standards for release of offenders; amending RCW 9.94A.700, 9.94A.705, 9.94A.715, 9.94A.720, 9.94A.545, 70.96A.350, 9.94A.760, 9.94A.750, 9.94A.780, 9.94A.637, 4.56.100, 72.09.111, and 51.32.040; amending 2002 c 290 s 30 (uncodified); amending 2002 c 290 s 31 (uncodified); reenacting and amending RCW 9.94A.728 and 9.94A.753; adding new sections to chapter 9.94A RCW; adding a new section to chapter 36.23 RCW; adding a new section to chapter 2.56 RCW; adding a new section to chapter 51.32 RCW; creating new sections; prescribing penalties; providing effective dates; providing an expiration date; and declaring an emergency.

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

Sec. 1. RCW 9.94A.728 and 2002 c 290 s 21 and 2002 c 50 s 2 are each reenacted and amended to read as follows:

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

(1) Except as otherwise provided for in subsection (2) of this section, the term of the sentence of an offender committed to a correctional facility operated by the department may be reduced by earned release time in accordance with procedures that shall be developed and promulgated by the correctional agency having jurisdiction in which the offender is confined. The earned release time shall be for good behavior and good performance, as determined by the correctional agency having jurisdiction. The correctional agency shall not credit the offender with earned release credits in advance of the offender actually earning the credits. Any program established pursuant to this section shall allow an offender to earn early release credits for presentence incarceration. If an offender is transferred from a county jail to the department, the administrator of a county jail facility shall certify to the department the amount of time spent in custody at the facility and the amount of earned release time. An offender who has been convicted of a felony committed after July 23, 1995, that involves any applicable deadly weapon enhancements under RCW 9.94A.533 (3) or (4), or both, shall not receive any good time credits or earned release time for that portion of his or her sentence that results from any deadly weapon enhancements.

(a) 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, and before July 1, 2003, the aggregate earned release time may not exceed fifteen percent of the sentence. 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, 2003, the aggregate earned release time may not exceed ten percent of the sentence.

(b)(i) In the case of an offender who qualifies under (b)(ii) of this subsection, the aggregate earned release time may not exceed fifty percent of the sentence.

(ii) An offender is qualified to earn up to fifty percent of aggregate earned release time under this subsection (1)(b) if he or she:

(A) Is classified in one of the two lowest risk categories under (b)(iii) of this subsection;

(B) Is not confined pursuant to a sentence for:

(I) A sex offense;

(II) A violent offense;

(III) A crime against persons as defined in RCW 9.94A.411;

(IV) A felony that is domestic violence as defined in RCW 10.99.020;

(V) A violation of RCW 9A.52.025 (residential burglary);

(VI) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by manufacture or delivery or possession with intent to deliver methamphetamine; or

(VII) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.406 (delivery of a controlled substance to a minor); and

(C) Has no prior conviction for:

(I) A sex offense;

(II) A violent offense;

(III) A crime against persons as defined in RCW 9.94A.411;

(IV) A felony that is domestic violence as defined in RCW 10.99.020;

(V) A violation of RCW 9A.52.025 (residential burglary);

(VI) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by manufacture or delivery or possession with intent to deliver methamphetamine; or

(VII) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.406 (delivery of a controlled substance to a minor).

(iii) For purposes of determining an offender's eligibility under this subsection (1)(b), the department shall perform a risk assessment of every offender committed to a correctional facility operated by the department who has no current or prior conviction for a sex offense, a violent offense, a crime against persons as defined in RCW 9.94A.411, a felony that is domestic violence as defined in RCW 10.99.020, a violation of RCW 9A.52.025 (residential burglary), a violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by manufacture or delivery or possession with intent to deliver methamphetamine, or a violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.406 (delivery of a controlled substance to a minor). The department must classify each assessed offender in one of four risk categories between highest and lowest risk.

(iv) The department shall recalculate the earned release time and reschedule the expected release dates for each qualified offender under this subsection (1)(b).

(v) This subsection (1)(b) applies retroactively to eligible offenders serving terms of total confinement in a state correctional facility as of the effective date of this section.

(vi) This subsection (1)(b) does not apply to offenders convicted after July 1, 2010.

(c) In no other case shall the aggregate earned release time exceed one-third of the total sentence;

(2)(a) A person convicted of a sex offense or an offense categorized as a serious violent offense, assault in the second degree, vehicular homicide, vehicular assault, assault of a child in the second degree, any crime against persons where it is determined in accordance with RCW 9.94A.602 that the offender or an accomplice was armed with a deadly weapon at the time of commission, or any felony offense under chapter 69.50 or 69.52 RCW, committed before July 1, 2000, may become eligible, in accordance with a program developed by the department, for transfer to community custody status in lieu of earned release time pursuant to subsection (1) of this section;

(b) A person convicted of a sex offense, a violent offense, any crime against persons under RCW 9.94A.411(2), or a felony offense under chapter 69.50 or 69.52 RCW, committed on or after July 1, 2000, may become eligible, in accordance with a program developed by the department, for transfer to community custody status in lieu of earned release time pursuant to subsection (1) of this section;

(c) The department shall, as a part of its program for release to the community in lieu of earned release, require the offender to propose a release plan that includes an approved residence and living arrangement. All offenders with community placement or community custody terms eligible for release to community custody status in lieu of earned release shall provide an approved residence and living arrangement prior to release to the community;

(d) The department may deny transfer to community custody status in lieu of earned release time pursuant to subsection (1) of this section if the department determines an offender's release plan, including proposed residence location and living arrangements, may violate the conditions of the sentence or conditions of supervision, place the offender at risk to violate the conditions of the sentence, place the offender at risk to reoffend, or present a risk to victim safety or community safety. The department's authority under this section is independent of any court-ordered condition of sentence or statutory provision regarding conditions for community custody or community placement;

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

(4)(a) The secretary may authorize an extraordinary medical placement for an offender when all of the following conditions exist:

(i) The offender has a medical condition that is serious enough to require costly care or treatment;

(ii) The offender poses a low risk to the community because he or she is physically incapacitated due to age or the medical condition; and

(iii) Granting the extraordinary medical placement will result in a cost savings to the state.

(b) An offender sentenced to death or to life imprisonment without the possibility of release or parole is not eligible for an extraordinary medical placement.

(c) The secretary shall require electronic monitoring for all offenders in extraordinary medical placement unless the electronic monitoring equipment interferes with the function of the offender's medical equipment or results in the loss of funding for the offender's medical care. The secretary shall specify who

shall provide the monitoring services and the terms under which the monitoring shall be performed.

(d) The secretary may revoke an extraordinary medical placement under this subsection at any time(-);

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

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

(7) The governor may pardon any offender;

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

(9) An offender may leave a correctional facility prior to completion of his or her sentence if the sentence has been reduced as provided in RCW 9.94A.870.

Notwithstanding any other provisions of this section, an offender sentenced for a felony crime listed in RCW 9.94A.540 as subject to a mandatory minimum sentence of total confinement shall not be released from total confinement before the completion of the listed mandatory minimum sentence for that felony crime of conviction unless allowed under RCW 9.94A.540, however persistent offenders are not eligible for extraordinary medical placement.

NEW SECTION. Sec. 2. A new section is added to chapter 9.94A RCW to read as follows:

The legislature declares that the changes to the maximum percentages of earned release time in this act do not create any expectation that the percentage of earned release time cannot be revised and offenders have no reason to conclude that the maximum percentage of earned release time is an entitlement or creates any liberty interest. The legislature retains full control over the right to revise the percentages of earned release time available to offenders at any time. This section applies to persons convicted on or after the effective date of this section.

NEW SECTION. Sec. 3. A new section is added to chapter 9.94A RCW to read as follows:

(1) When the department performs a risk assessment pursuant to RCW 9.94A.500, or to determine a person's conditions of supervision, the risk assessment shall classify the offender into one of at least four risk categories.

(2) The department shall supervise every offender sentenced to a term of community custody, community placement, or community supervision:

(a) Whose risk assessment places that offender in one of the two highest risk categories; or

(b) Regardless of the offender's risk category if:

(i) The offender's current conviction is for:

(A) A sex offense;

(B) A violent offense;

(C) A crime against persons as defined in RCW 9.94A.411;

(D) A felony that is domestic violence as defined in RCW 10.99.020;

(E) A violation of RCW 9A.52.025 (residential burglary);

(F) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by manufacture or delivery or possession with intent to deliver methamphetamine; or

(G) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.406 (delivery of a controlled substance to a minor);

(ii) The offender has a prior conviction for:

(A) A sex offense;

(B) A violent offense;

(C) A crime against persons as defined in RCW 9.94A.411;

(D) A felony that is domestic violence as defined in RCW 10.99.020;

(E) A violation of RCW 9A.52.025 (residential burglary);

(F) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by manufacture or delivery or possession with intent to deliver methamphetamine; or

(G) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.406 (delivery of a controlled substance to a minor);

(iii) The conditions of the offender's community custody, community placement, or community supervision include chemical dependency treatment;

(iv) The offender was sentenced under RCW 9.94A.650 or 9.94A.670; or

(v) The offender is subject to supervision pursuant to RCW 9.94A.745.

(3) The department is not authorized to, and may not, supervise any offender sentenced to a term of community custody, community placement, or community supervision unless the offender is one for whom supervision is required under subsection (2) of this section.

(4) This section expires July 1, 2010.

Sec. 4. RCW 9.94A.700 and 2002 c 175 s 13 are each amended to read as follows:

When a court sentences an offender to a term of total confinement in the custody of the department for any of the offenses specified in this section, the court shall also sentence the offender to a term of community placement as provided in this section. Except as provided in section 3 of this act, the department shall supervise any sentence of community placement imposed under this section.

(1) The court shall order a one-year term of community placement for the following:

(a) A sex offense or a serious violent offense committed after July 1, 1988, but before July 1, 1990; or

(b) An offense committed on or after July 1, 1988, but before July 25, 1999, that is:

(i) Assault in the second degree;

(ii) Assault of a child in the second degree;

(iii) A crime against persons where it is determined in accordance with RCW 9.94A.602 that the offender or an accomplice was armed with a deadly weapon at the time of commission; or

(iv) A felony offense under chapter 69.50 or 69.52 RCW not sentenced under RCW 9.94A.660.

(2) The court shall sentence the offender to a term of community placement of two years or up to the period of earned release awarded pursuant to RCW 9.94A.728, whichever is longer, for:

(a) An offense categorized as a sex offense committed on or after July 1, 1990, but before June 6, 1996, including those sex offenses also included in other offense categories;

(b) A serious violent offense other than a sex offense committed on or after July 1, 1990, but before July 1, 2000; or

(c) A vehicular homicide or vehicular assault committed on or after July 1, 1990, but before July 1, 2000.

(3) The community placement ordered under this section 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 release. When the court sentences an offender to the statutory maximum sentence then the community placement portion of the sentence shall consist entirely of the community custody to which the offender may become eligible. Any period of community custody actually served shall be credited against the community placement portion of the sentence.

(4) Unless a condition is waived by the court, the terms of any community placement imposed under this section shall include the following conditions:

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

(b) The offender shall work at department-approved education, employment, or community restitution, or any combination thereof;

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

(d) The offender shall pay supervision fees as determined by the department; and

(e) The residence location and living arrangements shall be subject to the prior approval of the department during the period of community placement.

(5) As a part of any terms of community placement imposed under this section, the court may also order one or more of the following special conditions:

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

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

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

(d) The offender shall not consume alcohol; or

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

(6) An offender convicted of a felony sex offense against a minor victim after June 6, 1996, shall comply with any terms and conditions of community placement imposed by the department relating to contact between the sex offender and a minor victim or a child of similar age or circumstance as a previous victim.

(7) Prior to or during community placement, upon recommendation of the department, the sentencing court may remove or modify any conditions of community placement so as not to be more restrictive.

Sec. 5. RCW 9.94A.705 and 2000 c 28 s 23 are each amended to read as follows:

Except for persons sentenced under RCW 9.94A.700(2) or 9.94A.710, when a court sentences a person to a term of total confinement to the custody of the department for a violent offense, any crime against persons under RCW 9.94A.411(2), or any felony offense under chapter 69.50 or 69.52 RCW not sentenced under RCW 9.94A.660, committed on or after July 25, 1999, but before July 1, 2000, 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 release in accordance with RCW 9.94A.728 (1) and (2). When the court sentences the offender under this section to the statutory maximum period of confinement, then the community placement portion of the sentence shall consist entirely of such community custody to which the offender may become eligible, in accordance with RCW 9.94A.728 (1) and (2). Any period of community custody actually served shall be credited against the community placement portion of the sentence. Except as provided in section 3 of this act, the department shall supervise any sentence of community placement or community custody imposed under this section.

Sec. 6. RCW 9.94A.715 and 2001 2nd sp.s. c 12 s 302 are each amended to read as follows:

(1) When a court sentences a person to the custody of the department for a sex offense not sentenced under RCW 9.94A.712, a violent offense, any crime against persons under RCW 9.94A.411(2), or a felony offense under chapter 69.50 or 69.52 RCW, committed on or after July 1, 2000, the court shall in addition to the other terms of the sentence, sentence the offender to community custody for the community custody range established under RCW 9.94A.850 or up to the period of earned release awarded pursuant to RCW 9.94A.728 (1) and (2), whichever is longer. The community custody shall begin: (a) Upon completion of the term of confinement; (b) at such time as the offender is transferred to community custody in lieu of earned release in accordance with RCW 9.94A.728 (1) and (2); or (c) with regard to offenders sentenced under RCW 9.94A.660, upon failure to complete or administrative termination from the special drug offender sentencing alternative program. Except as provided in section 3 of this act, the department shall supervise any sentence of community custody imposed under this section.

(2)(a) Unless a condition is waived by the court, the conditions of community custody shall include those provided for in RCW 9.94A.700(4). The conditions may also include those provided for in RCW 9.94A.700(5). The court may also order the offender to participate in rehabilitative programs or otherwise perform affirmative conduct reasonably related to the circumstances of the offense, the offender's risk of reoffending, or the safety of the community, and the department shall enforce such conditions pursuant to subsection (6) of this section.

(b) As part of any sentence that includes a term of community custody imposed under this subsection, the court shall also require the offender to comply with any conditions imposed by the department under RCW 9.94A.720. The department shall assess the offender's risk of reoffense and may establish and modify additional conditions of the offender's community custody based upon the risk to community safety. In addition, the department may require the

offender to participate in rehabilitative programs, or otherwise perform affirmative conduct, and to obey all laws.

(c) The department may not impose conditions that are contrary to those ordered by the court and may not contravene or decrease court imposed conditions. The department shall notify the offender in writing of any such conditions or modifications. In setting, modifying, and enforcing conditions of community custody, the department shall be deemed to be performing a quasi-judicial function.

(3) If an offender violates conditions imposed by the court or the department pursuant to this section during community custody, the department may transfer the offender to a more restrictive confinement status and impose other available sanctions as provided in RCW 9.94A.737 and 9.94A.740.

(4) Except for terms of community custody under RCW 9.94A.670, the department shall discharge the offender from community custody on a date determined by the department, which the department may modify, based on risk and performance of the offender, within the range or at the end of the period of earned release, whichever is later.

(5) At any time prior to the completion or termination of a sex offender's term of community custody, if the court finds that public safety would be enhanced, the court may impose and enforce an order extending any or all of the conditions imposed pursuant to this section for a period up to the maximum allowable sentence for the crime as it is classified in chapter 9A.20 RCW, regardless of the expiration of the offender's term of community custody. If a violation of a condition extended under this subsection occurs after the expiration of the offender's term of community custody, it shall be deemed a violation of the sentence for the purposes of RCW 9.94A.631 and may be punishable as contempt of court as provided for in RCW 7.21.040. If the court extends a condition beyond the expiration of the term of community custody, the department is not responsible for supervision of the offender's compliance with the condition.

(6) Within the funds available for community custody, the department shall determine conditions and duration of community custody on the basis of risk to community safety, and shall supervise offenders during community custody on the basis of risk to community safety and conditions imposed by the court. The secretary shall adopt rules to implement the provisions of this subsection.

(7) By the close of the next business day after receiving notice of a condition imposed or modified by the department, an offender may request an administrative review under rules adopted by the department. The condition shall remain in effect unless the reviewing officer finds that it is not reasonably related to any of the following: (a) The crime of conviction; (b) the offender's risk of reoffending; or (c) the safety of the community.

Sec. 7. RCW 9.94A.720 and 2002 c 175 s 14 are each amended to read as follows:

(1)(a) Except as provided in section 3 of this act, all offenders sentenced to terms involving community supervision, community restitution, community placement, or community custody~~((, or legal financial obligation))~~ shall be under the supervision of the department and shall follow explicitly the instructions and conditions of the department. The department may require an offender to perform affirmative acts it deems appropriate to monitor compliance with the

conditions of the sentence imposed. The department may only supervise the offender's compliance with payment of legal financial obligations during any period in which the department is authorized to supervise the offender in the community under section 3 of this act.

(b) The instructions shall include, at a minimum, reporting as directed to a community corrections officer, remaining within prescribed geographical boundaries, notifying the community corrections officer of any change in the offender's address or employment, and paying the supervision fee assessment.

(c) For offenders sentenced to terms involving community custody for crimes committed on or after June 6, 1996, the department may include, in addition to the instructions in (b) of this subsection, any appropriate conditions of supervision, including but not limited to, prohibiting the offender from having contact with any other specified individuals or specific class of individuals.

(d) For offenders sentenced to terms of community custody for crimes committed on or after July 1, 2000, the department may impose conditions as specified in RCW 9.94A.715.

The conditions authorized under (c) of this subsection may be imposed by the department prior to or during an offender's community custody term. If a violation of conditions imposed by the court or the department pursuant to RCW 9.94A.710 occurs during community custody, it shall be deemed a violation of community placement for the purposes of RCW 9.94A.740 and shall authorize the department to transfer an offender to a more restrictive confinement status as provided in RCW 9.94A.737. At any time prior to the completion of an offender's term of community custody, the department may recommend to the court that any or all of the conditions imposed by the court or the department pursuant to RCW 9.94A.710 or 9.94A.715 be continued beyond the expiration of the offender's term of community custody as authorized in RCW 9.94A.715 (3) or (5).

The department may require offenders to pay for special services rendered on or after July 25, 1993, including electronic monitoring, day reporting, and telephone reporting, dependent upon the offender's ability to pay. The department may pay for these services for offenders who are not able to pay.

(2) No offender sentenced to terms involving community supervision, community restitution, community custody, or community placement under the supervision of the department may own, use, or possess firearms or ammunition. Offenders who own, use, or are found to be in actual or constructive possession of firearms or ammunition shall be subject to the violation process and sanctions under RCW 9.94A.634, 9.94A.737, and 9.94A.740. "Constructive possession" as used in this subsection means the power and intent to control the firearm or ammunition. "Firearm" as used in this subsection has the same definition as in RCW 9.41.010.

Sec. 8. RCW 9.94A.545 and 2000 c 28 s 13 are each amended to read as follows:

Except as provided in RCW 9.94A.650, on all sentences of confinement for one year or less, in which the offender is convicted of a sex offense, a violent offense, a crime against a person under RCW 9.94A.411, or felony violation of chapter 69.50 or 69.52 RCW or an attempt, conspiracy, or solicitation to commit such a crime, the court may impose up to one year of community custody, subject to conditions and sanctions as authorized in RCW 9.94A.715 and

9.94A.720. An offender shall be on community custody as of the date of sentencing. However, during the time for which the offender is in total or partial confinement pursuant to the sentence or a violation of the sentence, the period of community custody shall toll.

Sec. 9. 2002 c 290 s 30 (uncodified) is amended to read as follows:

Section 2 of this act expires ~~((July 1, 2004))~~ on the effective date of section 9, chapter . . . , Laws of 2003 (section 9 of this act).

Sec. 10. 2002 c 290 s 31 (uncodified) is amended to read as follows:

Sections 7 through 11 and 14 through 23 of this act take effect ~~((July 1, 2004, and apply to crimes committed on or after July 1, 2004))~~ on the effective date of section 9, chapter . . . , Laws of 2003 (section 9 of this act).

Sec. 11. RCW 70.96A.350 and 2002 c 290 s 4 are each amended to read as follows:

(1) The criminal justice treatment account is created in the state treasury. Moneys in the account may be expended solely for: (a) Substance abuse treatment and treatment support services for offenders with an addiction or a substance abuse problem that, if not treated, would result in addiction, against whom charges are filed by a prosecuting attorney in Washington state; and (b) the provision of drug and alcohol treatment services and treatment support services for nonviolent offenders within a drug court program. Moneys in the account may be spent only after appropriation.

(2) For purposes of this section:

(a) "Treatment" means services that are critical to a participant's successful completion of his or her substance abuse treatment program, but does not include the following services: Housing other than that provided as part of an inpatient substance abuse treatment program, vocational training, and mental health counseling; and

(b) "Treatment support" means transportation to or from inpatient or outpatient treatment services when no viable alternative exists, and child care services that are necessary to ensure a participant's ability to attend outpatient treatment sessions.

(3) Revenues to the criminal justice treatment account consist of: (a) ~~((Savings to the state general fund resulting from implementation of chapter 290, Laws of 2002, as calculated))~~ Funds transferred to the account pursuant to this section; and (b) any other revenues appropriated to or deposited in the account.

~~(4)(a) ((The department of corrections, the sentencing guidelines commission, the office of financial management, and the caseload forecast council shall develop a methodology for calculating the projected biennial savings under this section. Savings shall be projected for the fiscal biennium beginning on July 1, 2003, and for each biennium thereafter. By September 1, 2002, the proposed methodology shall be submitted to the governor and the appropriate committees of the legislature. The methodology is deemed approved unless the legislature enacts legislation to modify or reject the methodology.~~

~~(b) When the department of corrections submits its biennial budget request to the governor in 2002 and in each even-numbered year thereafter, the department of corrections shall use the methodology approved in (a) of this subsection to calculate savings to the state general fund for the ensuing fiscal~~

~~biennium resulting from reductions in drug offender sentencing as a result of sections 2 and 3, chapter 290, Laws of 2002 and sections 7, 8, and 9, chapter 290, Laws of 2002. The department shall report the dollar amount of the savings to the state treasurer, the office of financial management, and the fiscal committees of the legislature.~~

~~(e)) For the fiscal biennium beginning July 1, 2003, ((and each fiscal biennium thereafter,)) the state treasurer shall transfer ((seventy-five percent of the amount reported in (b) of this subsection)) eight million nine hundred fifty thousand dollars from the general fund into the criminal justice treatment account, divided into eight equal quarterly payments. ((However, the amount transferred to the criminal justice treatment account shall not exceed the limit of eight million two hundred fifty thousand dollars per fiscal year. After the first fiscal year in which the amount to be transferred equals or exceeds eight million two hundred fifty thousand dollars, this limit)) For the fiscal year beginning July 1, 2005, and each subsequent fiscal year, the state treasurer shall transfer eight million two hundred fifty thousand dollars from the general fund to the criminal justice treatment account, divided into four equal quarterly payments. For the fiscal year beginning July 1, 2006, and each subsequent fiscal year, the amount transferred shall be increased on an annual basis by the implicit price deflator as published by the federal bureau of labor statistics.~~

~~((d)) (b) For the fiscal biennium beginning July 1, 2003, and each biennium thereafter, the state treasurer shall transfer ((twenty-five percent of the amount reported in (b) of this subsection)) two million nine hundred eighty-four thousand dollars from the general fund into the violence reduction and drug enforcement account, divided into eight quarterly payments. The amounts transferred pursuant to this subsection (4)((d)) (b) shall be used solely for providing drug and alcohol treatment services to offenders confined in a state correctional facility ((receiving a reduced sentence as a result of implementation of chapter 290, Laws of 2002 and)) who are assessed with an addiction or a substance abuse problem that if not treated would result in addiction. ((Any excess funds remaining after providing drug and alcohol treatment services to offenders receiving a reduced sentence as a result of implementation of chapter 290, Laws of 2002 may be expended to provide treatment for offenders confined in a state correctional facility and who are assessed with an addiction or a substance abuse problem that contributed to the crime.~~

~~(e)) (c) In each odd-numbered year, the legislature shall appropriate the amount transferred to the criminal justice treatment account in ((e)) (a) of this subsection to the division of alcohol and substance abuse for the purposes of subsection (5) of this section.~~

(5) Moneys appropriated to the division of alcohol and substance abuse from the criminal justice treatment account shall be distributed as specified in this subsection. The department shall serve as the fiscal agent for purposes of distribution. Until July 1, 2004, the department may not use moneys appropriated from the criminal justice treatment account for administrative expenses and shall distribute all amounts appropriated under subsection (4)((e)) (c) of this section in accordance with this subsection. Beginning in July 1, 2004, the department may retain up to three percent of the amount appropriated under subsection (4)((e)) (c) of this section for its administrative costs.

(a) Seventy percent of amounts appropriated to the division from the account shall be distributed to counties pursuant to the distribution formula adopted under this section. The division of alcohol and substance abuse, in consultation with the department of corrections, the sentencing guidelines commission, the Washington state association of counties, the Washington state association of drug court professionals, the superior court judges' association, the Washington association of prosecuting attorneys, representatives of the criminal defense bar, representatives of substance abuse treatment providers, and any other person deemed by the division to be necessary, shall establish a fair and reasonable methodology for distribution to counties of moneys in the criminal justice treatment account. County or regional plans submitted for the expenditure of formula funds must be approved by the panel established in (b) of this subsection.

(b) Thirty percent of the amounts appropriated to the division from the account shall be distributed as grants for purposes of treating offenders against whom charges are filed by a county prosecuting attorney. The division shall appoint a panel of representatives from the Washington association of prosecuting attorneys, the Washington association of sheriffs and police chiefs, the superior court judges' association, the Washington state association of counties, the Washington defender's association or the Washington association of criminal defense lawyers, the department of corrections, the Washington state association of drug court professionals, substance abuse treatment providers, and the division. The panel shall review county or regional plans for funding under (a) of this subsection and grants approved under this subsection. The panel shall attempt to ensure that treatment as funded by the grants is available to offenders statewide.

(6) The county alcohol and drug coordinator, county prosecutor, county sheriff, county superior court, a substance abuse treatment provider appointed by the county legislative authority, a member of the criminal defense bar appointed by the county legislative authority, and, in counties with a drug court, a representative of the drug court shall jointly submit a plan, approved by the county legislative authority or authorities, to the panel established in subsection (5)(b) of this section, for disposition of all the funds provided from the criminal justice treatment account within that county. The funds shall be used solely to provide approved alcohol and substance abuse treatment pursuant to RCW 70.96A.090 and treatment support services. No more than ten percent of the total moneys received under subsections (4) and (5) of this section by a county or group of counties participating in a regional agreement shall be spent for treatment support services.

(7) Counties are encouraged to consider regional agreements and submit regional plans for the efficient delivery of treatment under this section.

(8) Moneys allocated under this section shall be used to supplement, not supplant, other federal, state, and local funds used for substance abuse treatment.

(9) Counties must meet the criteria established in RCW 2.28.170(3)(b).

NEW SECTION. Sec. 12. The Washington state institute for public policy shall study the results of the changes in earned release under section 1 of this act. The study shall determine whether the changes in earned release affect the rate of recidivism or the type of offenses committed by persons whose release dates were affected by the changes in this act. The Washington state institute for

public policy shall report its findings to the governor and the appropriate committees of the legislature no later than December 1, 2008.

NEW SECTION. Sec. 13. The legislature intends to revise and improve the processes for billing and collecting legal financial obligations. The purpose of sections 13 through 27 of this act is to respond to suggestions and requests made by county government officials, and in particular county clerks, to assume the collection of such obligations in cooperation and coordination with the department of corrections and the administrative office for the courts. The legislature undertakes this effort following a collaboration between local officials, the department of corrections, and the administrative office for the courts. The intent of sections 13 through 27 of this act is to promote an increased and more efficient collection of legal financial obligations and, as a result, improve the likelihood that the affected agencies will increase the collections which will provide additional benefits to all parties and, in particular, crime victims whose restitution is dependent upon the collections.

Sec. 14. RCW 9.94A.760 and 2001 c 10 s 3 are each amended to read as follows:

(1) Whenever a person is convicted of a felony, the court may order the payment of a legal financial obligation as part of the sentence. The court must on either the judgment and sentence or on a subsequent order to pay, designate the total amount of a legal financial obligation and segregate this amount among the separate assessments made for restitution, costs, fines, and other assessments required by law. On the same order, the court is also to set a sum that the offender is required to pay on a monthly basis towards satisfying the legal financial obligation. If the court fails to set the offender monthly payment amount, the department shall set the amount. Upon receipt of an offender's monthly payment, restitution shall be paid prior to any payments of other monetary obligations. After restitution is satisfied, the county clerk shall distribute the payment proportionally among all other fines, costs, and assessments imposed, unless otherwise ordered by the court.

(2) If the court determines that the offender, at the time of sentencing, has the means to pay for the cost of incarceration, the court may require the offender to pay for the cost of incarceration at a rate of fifty dollars per day of incarceration. Payment of other court-ordered financial obligations, including all legal financial obligations and costs of supervision shall take precedence over the payment of the cost of incarceration ordered by the court. All funds recovered from offenders for the cost of incarceration in the county jail shall be remitted to the county and the costs of incarceration in a prison shall be remitted to the department.

(3) The court may add to the judgment and sentence or subsequent order to pay a statement that a notice of payroll deduction is to be issued immediately. If the court chooses not to order the immediate issuance of a notice of payroll deduction at sentencing, the court shall add to the judgment and sentence or subsequent order to pay a statement that a notice of payroll deduction may be issued or other income-withholding action may be taken, without further notice to the offender if a monthly court-ordered legal financial obligation payment is not paid when due, and an amount equal to or greater than the amount payable for one month is owed.

If a judgment and sentence or subsequent order to pay does not include the statement that a notice of payroll deduction may be issued or other income-withholding action may be taken if a monthly legal financial obligation payment is past due, the department or the county clerk may serve a notice on the offender stating such requirements and authorizations. Service shall be by personal service or any form of mail requiring a return receipt.

(4) Independent of the department or the county clerk, the party or entity to whom the legal financial obligation is owed shall have the authority to use any other remedies available to the party or entity to collect the legal financial obligation. These remedies include enforcement in the same manner as a judgment in a civil action by the party or entity to whom the legal financial obligation is owed. Restitution collected through civil enforcement must be paid through the registry of the court and must be distributed proportionately according to each victim's loss when there is more than one victim. The judgment and sentence shall identify the party or entity to whom restitution is owed so that the state, party, or entity may enforce the judgment. If restitution is ordered pursuant to RCW 9.94A.750(6) or 9.94A.753(6) to a victim of rape of a child or a victim's child born from the rape, the Washington state child support registry shall be identified as the party to whom payments must be made. Restitution obligations arising from the rape of a child in the first, second, or third degree that result in the pregnancy of the victim may be enforced for the time periods provided under RCW 9.94A.750(6) and 9.94A.753(6). All other legal financial obligations for an offense committed prior to July 1, 2000, may be enforced at any time during the ten-year period following the offender's release from total confinement or within ten years of entry of the judgment and sentence, whichever period ends later. Prior to the expiration of the initial ten-year period, the superior court may extend the criminal judgment an additional ten years for payment of legal financial obligations including crime victims' assessments. All other legal financial obligations for an offense committed on or after July 1, 2000, may be enforced at any time the offender remains under the court's jurisdiction. For an offense committed on or after July 1, 2000, the court shall retain jurisdiction over the offender, for purposes of the offender's compliance with payment of the legal financial obligations, until the obligation is completely satisfied, regardless of the statutory maximum for the crime. The department (~~of corrections shall~~) may only supervise the offender's compliance with payment of the legal financial obligations (~~for ten years following the entry of the judgment and sentence, or ten years following the offender's release from total confinement, whichever period ends later~~) during any period in which the department is authorized to supervise the offender in the community under RCW 9.94A.728, section 3 of this act, or in which the offender is confined in a state correctional institution or a correctional facility pursuant to a transfer agreement with the department, and the department shall supervise the offender's compliance during any such period. The department is not responsible for supervision of the offender during any subsequent period of time the offender remains under the court's jurisdiction. The county clerk is authorized to collect unpaid legal financial obligations at any time the offender remains under the jurisdiction of the court for purposes of his or her legal financial obligations.

(5) In order to assist the court in setting a monthly sum that the offender must pay during the period of supervision, the offender is required to report to

the department for purposes of preparing a recommendation to the court. When reporting, the offender is required, under oath, to respond truthfully and honestly to all questions concerning present, past, and future earning capabilities and the location and nature of all property or financial assets. The offender is further required to bring all documents requested by the department.

(6) After completing the investigation, the department shall make a report to the court on the amount of the monthly payment that the offender should be required to make towards a satisfied legal financial obligation.

(7)(a) During the period of supervision, the department may make a recommendation to the court that the offender's monthly payment schedule be modified so as to reflect a change in financial circumstances. If the department sets the monthly payment amount, the department may modify the monthly payment amount without the matter being returned to the court. During the period of supervision, the department may require the offender to report to the department for the purposes of reviewing the appropriateness of the collection schedule for the legal financial obligation. During this reporting, the offender is required under oath to respond truthfully and honestly to all questions concerning earning capabilities and the location and nature of all property or financial assets. The offender shall bring all documents requested by the department in order to prepare the collection schedule.

(b) Subsequent to any period of supervision, or if the department is not authorized to supervise the offender in the community, the county clerk may make a recommendation to the court that the offender's monthly payment schedule be modified so as to reflect a change in financial circumstances. If the county clerk sets the monthly payment amount, the clerk may modify the monthly payment amount without the matter being returned to the court. During the period of repayment, the county clerk may require the offender to report to the clerk for the purpose of reviewing the appropriateness of the collection schedule for the legal financial obligation. During this reporting, the offender is required under oath to respond truthfully and honestly to all questions concerning earning capabilities and the location and nature of all property or financial assets. The offender shall bring all documents requested by the county clerk in order to prepare the collection schedule.

(8) After the judgment and sentence or payment order is entered, the department is authorized, for any period of supervision, to collect the legal financial obligation from the offender. Subsequent to any period of supervision or, if the department is not authorized to supervise the offender in the community, the county clerk is authorized to collect unpaid legal financial obligations from the offender. Any amount collected by the department shall be remitted daily to the county clerk for the purpose of disbursements. The department ((is)) and the county clerks are authorized, but not required, to accept credit cards as payment for a legal financial obligation, and any costs incurred related to accepting credit card payments shall be the responsibility of the offender.

(9) The department or any obligee of the legal financial obligation may seek a mandatory wage assignment for the purposes of obtaining satisfaction for the legal financial obligation pursuant to RCW 9.94A.7701. Any party obtaining a wage assignment shall notify the county clerk. The county clerks shall notify the

department, or the administrative office of the courts, whichever is providing the monthly billing for the offender.

(10) The requirement that the offender pay a monthly sum towards a legal financial obligation constitutes a condition or requirement of a sentence and the offender is subject to the penalties for noncompliance as provided in RCW 9.94A.634, 9.94A.737, or 9.94A.740.

(11)(a) Until January 1, 2004, the department shall mail individualized monthly billings to the address known by the department for each offender with an unsatisfied legal financial obligation.

(b) Beginning January 1, 2004, the administrative office of the courts shall mail individualized monthly billings to the address known by the office for each offender with an unsatisfied legal financial obligation.

(c) The billing shall direct payments, other than outstanding cost of supervision assessments under RCW 9.94A.780, parole assessments under RCW 72.04A.120, and cost of probation assessments under RCW 9.95.214, to the county clerk, and cost of supervision, parole, or probation assessments to the department.

(d) The county clerk shall provide the ~~((department with individualized monthly billings for each offender with an unsatisfied legal financial obligation and shall provide the department))~~ administrative office of the courts with notice of payments by such offenders no less frequently than weekly.

(e) The county clerks, the administrative office of the courts, and the department shall maintain agreements to implement this subsection.

(12) The department ~~((may))~~ shall arrange for the collection of unpaid legal financial obligations during any period of supervision in the community through the county clerk ~~((or))~~. The department shall either collect unpaid legal financial obligations or arrange for collections through another entity if the clerk does not assume responsibility for collection pursuant to subsection (4) of this section. The costs for collection services shall be paid by the offender.

(13) Nothing in this chapter makes the department, the state, the counties, or any ~~((of its))~~ state or county employees, agents, or other persons acting on their behalf liable under any circumstances for the payment of these legal financial obligations or for the acts of any offender who is no longer, or was not, subject to supervision by the department for a term of community custody, community placement, or community supervision, and who remains under the jurisdiction of the court for payment of legal financial obligations.

Sec. 15. RCW 9.94A.750 and 2000 c 28 s 32 are each amended to read as follows:

This section applies to offenses committed on or before July 1, 1985.

(1) If restitution is ordered, the court shall determine the amount of restitution due at the sentencing hearing or within one hundred eighty days. The court may continue the hearing beyond the one hundred eighty days for good cause. The court shall then set a minimum monthly payment that the offender is required to make towards the restitution that is ordered. The court should take into consideration the total amount of the restitution owed, the offender's present, past, and future ability to pay, as well as any assets that the offender may have.

(2) During the period of supervision, the community corrections officer may examine the offender to determine if there has been a change in circumstances

that warrants an amendment of the monthly payment schedule. The community corrections officer may recommend a change to the schedule of payment and shall inform the court of the recommended change and the reasons for the change. The sentencing court may then reset the monthly minimum payments based on the report from the community corrections officer of the change in circumstances.

(3) Except as provided in subsection (6) of this section, restitution ordered by a court pursuant to a criminal conviction shall be based on easily ascertainable damages for injury to or loss of property, actual expenses incurred for treatment for injury to persons, and lost wages resulting from injury. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses, but may include the costs of counseling reasonably related to the offense. The amount of restitution shall not exceed double the amount of the offender's gain or the victim's loss from the commission of the offense.

(4) For the purposes of this section, the offender shall remain under the court's jurisdiction for a term of ten years following the offender's release from total confinement or ten years subsequent to the entry of the judgment and sentence, whichever period is longer. Prior to the expiration of the initial ten-year period, the superior court may extend jurisdiction under the criminal judgment an additional ten years for payment of restitution. ~~((If jurisdiction under the criminal judgment is extended, the department is not responsible for supervision of the offender during the subsequent period.))~~ The portion of the sentence concerning restitution may be modified as to amount, terms and conditions during either the initial ten-year period or subsequent ten-year period if the criminal judgment is extended, regardless of the expiration of the offender's term of community supervision and regardless of the statutory maximum sentence for the crime. The court may not reduce the total amount of restitution ordered because the offender may lack the ability to pay the total amount. The offender's compliance with the restitution shall be supervised by the department only during any period which the department is authorized to supervise the offender in the community under RCW 9.94A.728, section 3 of this act, or in which the offender is in confinement in a state correctional institution or a correctional facility pursuant to a transfer agreement with the department, and the department shall supervise the offender's compliance during any such period. The department is responsible for supervision of the offender only during confinement and authorized supervision and not during any subsequent period in which the offender remains under the court's jurisdiction. The county clerk is authorized to collect unpaid restitution at any time the offender remains under the jurisdiction of the court for purposes of his or her legal financial obligations.

(5) Restitution may be ordered whenever the offender is convicted of an offense which results in injury to any person or damage to or loss of property or as provided in subsection (6) of this section. In addition, restitution may be ordered to pay for an injury, loss, or damage if the offender pleads guilty to a lesser offense or fewer offenses and agrees with the prosecutor's recommendation that the offender be required to pay restitution to a victim of an offense or offenses which are not prosecuted pursuant to a plea agreement.

(6) Restitution for the crime of rape of a child in the first, second, or third degree, in which the victim becomes pregnant, shall include: (a) All of the victim's medical expenses that are associated with the rape and resulting pregnancy; and (b) child support for any child born as a result of the rape if child support is ordered pursuant to a proceeding in superior court or administrative order for support for that child. The clerk must forward any restitution payments made on behalf of the victim's child to the Washington state child support registry under chapter 26.23 RCW. Identifying information about the victim and child shall not be included in the order. The offender shall receive a credit against any obligation owing under the administrative or superior court order for support of the victim's child. For the purposes of this subsection, the offender shall remain under the court's jurisdiction until the offender has satisfied support obligations under the superior court or administrative order but not longer than a maximum term of twenty-five years following the offender's release from total confinement or twenty-five years subsequent to the entry of the judgment and sentence, whichever period is longer. The court may not reduce the total amount of restitution ordered because the offender may lack the ability to pay the total amount. The department shall supervise the offender's compliance with the restitution ordered under this subsection.

(7) In addition to any sentence that may be imposed, an offender who has been found guilty of an offense involving fraud or other deceptive practice or an organization which has been found guilty of any such offense may be ordered by the sentencing court to give notice of the conviction to the class of persons or to the sector of the public affected by the conviction or financially interested in the subject matter of the offense by mail, by advertising in designated areas or through designated media, or by other appropriate means.

(8) This section does not limit civil remedies or defenses available to the victim or offender including support enforcement remedies for support ordered under subsection (6) of this section for a child born as a result of a rape of a child victim. The court shall identify in the judgment and sentence the victim or victims entitled to restitution and what amount is due each victim. The state or victim may enforce the court-ordered restitution in the same manner as a judgment in a civil action. Restitution collected through civil enforcement must be paid through the registry of the court and must be distributed proportionately according to each victim's loss when there is more than one victim.

Sec. 16. RCW 9.94A.753 and 2000 c 226 s 3 and 2000 c 28 s 33 are each reenacted and amended to read as follows:

This section applies to offenses committed after July 1, 1985.

(1) When restitution is ordered, the court shall determine the amount of restitution due at the sentencing hearing or within one hundred eighty days except as provided in subsection (7) of this section. The court may continue the hearing beyond the one hundred eighty days for good cause. The court shall then set a minimum monthly payment that the offender is required to make towards the restitution that is ordered. The court should take into consideration the total amount of the restitution owed, the offender's present, past, and future ability to pay, as well as any assets that the offender may have.

(2) During the period of supervision, the community corrections officer may examine the offender to determine if there has been a change in circumstances that warrants an amendment of the monthly payment schedule. The community

corrections officer may recommend a change to the schedule of payment and shall inform the court of the recommended change and the reasons for the change. The sentencing court may then reset the monthly minimum payments based on the report from the community corrections officer of the change in circumstances.

(3) Except as provided in subsection (6) of this section, restitution ordered by a court pursuant to a criminal conviction shall be based on easily ascertainable damages for injury to or loss of property, actual expenses incurred for treatment for injury to persons, and lost wages resulting from injury. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses, but may include the costs of counseling reasonably related to the offense. The amount of restitution shall not exceed double the amount of the offender's gain or the victim's loss from the commission of the crime.

(4) For the purposes of this section, for an offense committed prior to July 1, 2000, the offender shall remain under the court's jurisdiction for a term of ten years following the offender's release from total confinement or ten years subsequent to the entry of the judgment and sentence, whichever period ends later. Prior to the expiration of the initial ten-year period, the superior court may extend jurisdiction under the criminal judgment an additional ten years for payment of restitution. For an offense committed on or after July 1, 2000, the offender shall remain under the court's jurisdiction until the obligation is completely satisfied, regardless of the statutory maximum for the crime. The portion of the sentence concerning restitution may be modified as to amount, terms, and conditions during any period of time the offender remains under the court's jurisdiction, regardless of the expiration of the offender's term of community supervision and regardless of the statutory maximum sentence for the crime. The court may not reduce the total amount of restitution ordered because the offender may lack the ability to pay the total amount. The offender's compliance with the restitution shall be supervised by the department (~~for ten years following the entry of the judgment and sentence or ten years following the offender's release from total confinement. The department is not responsible for supervision of the offender during any subsequent period of time the offender remains under the court's jurisdiction~~) only during any period which the department is authorized to supervise the offender in the community under RCW 9.94A.728, section 3 of this act, or in which the offender is in confinement in a state correctional institution or a correctional facility pursuant to a transfer agreement with the department, and the department shall supervise the offender's compliance during any such period. The department is responsible for supervision of the offender only during confinement and authorized supervision and not during any subsequent period in which the offender remains under the court's jurisdiction. The county clerk is authorized to collect unpaid restitution at any time the offender remains under the jurisdiction of the court for purposes of his or her legal financial obligations.

(5) Restitution shall be ordered whenever the offender is convicted of an offense which results in injury to any person or damage to or loss of property or as provided in subsection (6) of this section unless extraordinary circumstances exist which make restitution inappropriate in the court's judgment and the court sets forth such circumstances in the record. In addition, restitution shall be

ordered to pay for an injury, loss, or damage if the offender pleads guilty to a lesser offense or fewer offenses and agrees with the prosecutor's recommendation that the offender be required to pay restitution to a victim of an offense or offenses which are not prosecuted pursuant to a plea agreement.

(6) Restitution for the crime of rape of a child in the first, second, or third degree, in which the victim becomes pregnant, shall include: (a) All of the victim's medical expenses that are associated with the rape and resulting pregnancy; and (b) child support for any child born as a result of the rape if child support is ordered pursuant to a civil superior court or administrative order for support for that child. The clerk must forward any restitution payments made on behalf of the victim's child to the Washington state child support registry under chapter 26.23 RCW. Identifying information about the victim and child shall not be included in the order. The offender shall receive a credit against any obligation owing under the administrative or superior court order for support of the victim's child. For the purposes of this subsection, the offender shall remain under the court's jurisdiction until the offender has satisfied support obligations under the superior court or administrative order for the period provided in RCW 4.16.020 or a maximum term of twenty-five years following the offender's release from total confinement or twenty-five years subsequent to the entry of the judgment and sentence, whichever period is longer. The court may not reduce the total amount of restitution ordered because the offender may lack the ability to pay the total amount. The department shall supervise the offender's compliance with the restitution ordered under this subsection.

(7) Regardless of the provisions of subsections (1) through (6) of this section, the court shall order restitution in all cases where the victim is entitled to benefits under the crime victims' compensation act, chapter 7.68 RCW. If the court does not order restitution and the victim of the crime has been determined to be entitled to benefits under the crime victims' compensation act, the department of labor and industries, as administrator of the crime victims' compensation program, may petition the court within one year of entry of the judgment and sentence for entry of a restitution order. Upon receipt of a petition from the department of labor and industries, the court shall hold a restitution hearing and shall enter a restitution order.

(8) In addition to any sentence that may be imposed, an offender who has been found guilty of an offense involving fraud or other deceptive practice or an organization which has been found guilty of any such offense may be ordered by the sentencing court to give notice of the conviction to the class of persons or to the sector of the public affected by the conviction or financially interested in the subject matter of the offense by mail, by advertising in designated areas or through designated media, or by other appropriate means.

(9) This section does not limit civil remedies or defenses available to the victim, survivors of the victim, or offender including support enforcement remedies for support ordered under subsection (6) of this section for a child born as a result of a rape of a child victim. The court shall identify in the judgment and sentence the victim or victims entitled to restitution and what amount is due each victim. The state or victim may enforce the court-ordered restitution in the same manner as a judgment in a civil action. Restitution collected through civil enforcement must be paid through the registry of the court and must be

distributed proportionately according to each victim's loss when there is more than one victim.

NEW SECTION. Sec. 17. A new section is added to chapter 9.94A RCW to read as follows:

If an offender with an unsatisfied legal financial obligation is not subject to supervision by the department for a term of community placement, community custody, or community supervision, or has not completed payment of all legal financial obligations included in the sentence at the expiration of his or her term of community placement, community custody, or community supervision, the department shall notify the administrative office of the courts of the termination of the offender's supervision and provide information to the administrative office of the courts to enable the county clerk to monitor payment of the remaining obligations. The county clerk is authorized to monitor payment after such notification. The secretary of corrections and the administrator for the courts shall enter into an interagency agreement to facilitate the electronic transfer of information about offenders, unpaid obligations, and payees to carry out the purposes of this section.

Sec. 18. RCW 9.94A.780 and 1991 c 104 s 1 are each amended to read as follows:

(1) Whenever a punishment imposed under this chapter requires supervision services to be provided, the offender shall pay to the department of corrections the monthly assessment, prescribed under subsection (2) of this section, which shall be for the duration of the terms of supervision and which shall be considered as payment or part payment of the cost of providing supervision to the offender. The department may exempt or defer a person from the payment of all or any part of the assessment based upon any of the following factors:

(a) The offender has diligently attempted but has been unable to obtain employment that provides the offender sufficient income to make such payments.

(b) The offender is a student in a school, college, university, or a course of vocational or technical training designed to fit the student for gainful employment.

(c) The offender has an employment handicap, as determined by an examination acceptable to or ordered by the department.

(d) The offender's age prevents him or her from obtaining employment.

(e) The offender is responsible for the support of dependents and the payment of the assessment constitutes an undue hardship on the offender.

(f) Other extenuating circumstances as determined by the department.

(2) The department of corrections shall adopt a rule prescribing the amount of the assessment. The department may, if it finds it appropriate, prescribe a schedule of assessments that shall vary in accordance with the intensity or cost of the supervision. The department may not prescribe any assessment that is less than ten dollars nor more than fifty dollars.

(3) All amounts required to be paid under this section shall be collected by the department of corrections and deposited by the department in the dedicated fund established pursuant to RCW 72.11.040.

(4) This section shall not apply to probation services provided under an interstate compact pursuant to chapter 9.95 RCW or to probation services provided for persons placed on probation prior to June 10, 1982.

(5) If a county clerk assumes responsibility for collection of unpaid legal financial obligations under RCW 9.94A.760, or under any agreement with the department under that section, whether before or after the completion of any period of community placement, community custody, or community supervision, the clerk may impose a monthly or annual assessment for the cost of collections. The amount of the assessment shall not exceed the actual cost of collections. The county clerk may exempt or defer payment of all or part of the assessment based upon any of the factors listed in subsection (1) of this section. The offender shall pay the assessment under this subsection to the county clerk who shall apply it to the cost of collecting legal financial obligations under RCW 9.94A.760.

Sec. 19. RCW 9.94A.637 and 2002 c 16 s 2 are each amended to read as follows:

(1)(a) When an offender has completed all requirements of the sentence, including any and all legal financial obligations, and while under the custody and supervision of the department, the secretary or the secretary's designee shall notify the sentencing court, which shall discharge the offender and provide the offender with a certificate of discharge by issuing the certificate to the offender in person or by mailing the certificate to the offender's last known address.

(b)(i) When an offender has reached the end of his or her supervision with the department and has completed all the requirements of the sentence except his or her legal financial obligations, the secretary's designee shall provide the county clerk with a notice that the offender has completed all nonfinancial requirements of the sentence.

(ii) When the department has provided the county clerk with notice that an offender has completed all the requirements of the sentence and the offender subsequently satisfies all legal financial obligations under the sentence, the county clerk shall notify the sentencing court, including the notice from the department, which shall discharge the offender and provide the offender with a certificate of discharge by issuing the certificate to the offender in person or by mailing the certificate to the offender's last known address.

(2) The court shall send a copy of every signed certificate of discharge to the auditor for the county in which the court resides and to the department. The department shall create and maintain a data base containing the names of all felons who have been issued certificates of discharge, the date of discharge, and the date of conviction and offense.

(3) An offender who is not convicted of a violent offense or a sex offense and is sentenced to a term involving community supervision may be considered for a discharge of sentence by the sentencing court prior to the completion of community supervision, provided that the offender has completed at least one-half of the term of community supervision and has met all other sentence requirements.

(4) Except as provided in subsection (5) of this section, the discharge shall have the effect of restoring all civil rights lost by operation of law upon conviction, and the certificate of discharge shall so state. Nothing in this section prohibits the use of an offender's prior record for purposes of determining

sentences for later offenses as provided in this chapter. Nothing in this section affects or prevents use of the offender's prior conviction in a later criminal prosecution either as an element of an offense or for impeachment purposes. A certificate of discharge is not based on a finding of rehabilitation.

(5) Unless otherwise ordered by the sentencing court, a certificate of discharge shall not terminate the offender's obligation to comply with an order issued under chapter 10.99 RCW that excludes or prohibits the offender from having contact with a specified person or coming within a set distance of any specified location that was contained in the judgment and sentence. An offender who violates such an order after a certificate of discharge has been issued shall be subject to prosecution according to the chapter under which the order was originally issued.

(6) Upon release from custody, the offender may apply to the department for counseling and help in adjusting to the community. This voluntary help may be provided for up to one year following the release from custody.

NEW SECTION. Sec. 20. A new section is added to chapter 36.23 RCW to read as follows:

The Washington association of county officials, in consultation with county clerks, shall determine a funding formula for allocation of moneys to counties for purposes of collecting legal financial obligations, and report this formula to the legislature and the administrative office of the courts by September 1, 2003. The Washington association of county officials shall report on the amounts of legal financial obligations collected by the county clerks to the appropriate committees of the legislature no later than December 1, 2004, and annually thereafter.

NEW SECTION. Sec. 21. A new section is added to chapter 2.56 RCW to read as follows:

By October 1, 2003, and annually thereafter, the administrative office of the courts shall distribute such funds to counties for county clerk collection budgets as are appropriated by the legislature for this purpose, using the funding formula recommended by the Washington association of county officials. The administrative office of the courts shall not deduct any amount for indirect or direct costs, and shall distribute the entire amount appropriated by the legislature to the counties for county clerk collection budgets. The administrative office of the courts shall report on the amounts distributed to counties to the appropriate committees of the legislature no later than December 1, 2003, and annually thereafter.

The administrative office of the courts may expend for the purposes of billing for legal financial obligations, such funds as are appropriated for the legislature for this purpose.

NEW SECTION. Sec. 22. A new section is added to chapter 9.94A RCW to read as follows:

Notwithstanding any other provision of state law, monthly payment or starting dates set by the court or the department before or after the effective date of this section shall not be construed as a limitation on the due date or amount of legal financial obligations, which may be immediately collected by civil means. Monthly payments and commencement dates are to be construed to be

applicable solely as a limitation upon the deprivation of an offender's liberty for nonpayment.

Sec. 23. RCW 4.56.100 and 1997 c 358 s 4 are each amended to read as follows:

(1) When any judgment for the payment of money only shall have been paid or satisfied, the clerk of the court in which such judgment was rendered shall note upon the record in the execution docket satisfaction thereof giving the date of such satisfaction upon either the payment to such clerk of the amount of such judgment, costs and interest and any accrued costs by reason of the issuance of any execution, or the filing with such clerk of a satisfaction entitled in such action and identifying the same executed by the judgment creditor or his or her attorney of record in such action or his or her assignee acknowledged as deeds are acknowledged. The clerk has the authority to note the satisfaction of judgments for criminal and juvenile legal financial obligations when the clerk's record indicates payment in full or as directed by the court. Every satisfaction of judgment and every partial satisfaction of judgment which provides for the payment of money shall clearly designate the judgment creditor and his or her attorney if any, the judgment debtor, the amount or type of satisfaction, whether the satisfaction is full or partial, the cause number, and the date of entry of the judgment. A certificate by such clerk of the entry of such satisfaction by him or her may be filed in the office of the clerk of any county in which an abstract of such judgment has been filed. When so satisfied by the clerk or the filing of such certificate the lien of such judgment shall be discharged.

(2) The department of social and health services shall file a satisfaction of judgment for welfare fraud conviction if a person does not pay money through the clerk as required under subsection (1) of this section.

~~((3) The department of corrections shall file a satisfaction of judgment if a person does not pay money through the clerk's office as required under subsection (1) of this section.))~~

NEW SECTION. Sec.24. A new section is added to chapter 9.94A RCW to read as follows:

The provisions of sections 13 through 27 of this act apply to all offenders currently, or in the future, subject to sentences with unsatisfied legal financial obligations. The provisions of sections 13 through 27 of this act do not change the amount of any legal financial obligation or the maximum term for which any offender is, or may be, under the jurisdiction of the court for collection of legal financial obligations.

Sec. 25. RCW 72.09.111 and 2002 c 126 s 2 are each amended to read as follows:

(1) The secretary shall deduct taxes and legal financial obligations from the gross wages ~~((or)), gratuities, or workers' compensation benefits payable directly to the inmate under chapter 51.32 RCW,~~ of each inmate working in correctional industries work programs, ~~((taxes and legal financial obligations)) or otherwise receiving such wages, gratuities, or benefits.~~ The secretary shall develop a formula for the distribution of offender wages ~~((and)), gratuities, and benefits.~~ The formula shall not reduce the inmate account below the indigency level, as defined in RCW 72.09.015.

(a) The formula shall include the following minimum deductions from class I gross wages and from all others earning at least minimum wage:

(i) Five percent to the public safety and education account for the purpose of crime victims' compensation;

(ii) Ten percent to a department personal inmate savings account;

(iii) Twenty percent to the department to contribute to the cost of incarceration; and

(iv) Twenty percent for payment of legal financial obligations for all inmates who have legal financial obligations owing in any Washington state superior court.

(b) The formula shall include the following minimum deductions from class II gross gratuities:

(i) Five percent to the public safety and education account for the purpose of crime victims' compensation;

(ii) Ten percent to a department personal inmate savings account;

(iii) Fifteen percent to the department to contribute to the cost of incarceration; and

(iv) Twenty percent for payment of legal financial obligations for all inmates who have legal financial obligations owing in any Washington state superior court.

(c) The formula shall include the following minimum deductions from any workers' compensation benefits paid pursuant to RCW 51.32.080:

(i) Five percent to the public safety and education account for the purpose of crime victims' compensation;

(ii) Ten percent to a department personal inmate savings account;

(iii) Twenty percent to the department to contribute to the cost of incarceration; and

(iv) An amount equal to any legal financial obligations owed by the inmate established by an order of any Washington state superior court up to the total amount of the award.

(d) The formula shall include the following minimum deduction from class IV gross gratuities: Five percent to the department to contribute to the cost of incarceration.

~~((d))~~ (e) The formula shall include the following minimum deductions from class III gratuities: Five percent for the purpose of crime victims' compensation.

(2) Any person sentenced to life imprisonment without possibility of release or parole under chapter 10.95 RCW or sentenced to death shall be exempt from the requirement under subsection (1)(a)(ii) ~~((e))~~, (b)(ii) ~~((of this subsection))~~, or (c)(ii).

(3) The department personal inmate savings account, together with any accrued interest, shall only be available to an inmate at the time of his or her release from confinement, unless the secretary determines that an emergency exists for the inmate, at which time the funds can be made available to the inmate in an amount determined by the secretary. The management of classes I, II, and IV correctional industries may establish an incentive payment for offender workers based on productivity criteria. This incentive shall be paid separately from the hourly wage/gratuity rate and shall not be subject to the specified deduction for cost of incarceration.

~~(4)~~ (4) In the event that the offender worker's wages (~~(or)~~), gratuity, or workers' compensation benefit is subject to garnishment for support enforcement, the crime victims' compensation, savings, and cost of incarceration deductions shall be calculated on the net wages after taxes, legal financial obligations, and garnishment.

~~((2))~~ (5) The department shall explore other methods of recovering a portion of the cost of the inmate's incarceration and for encouraging participation in work programs, including development of incentive programs that offer inmates benefits and amenities paid for only from wages earned while working in a correctional industries work program.

~~((3))~~ (6) The department shall develop the necessary administrative structure to recover inmates' wages and keep records of the amount inmates pay for the costs of incarceration and amenities. All funds deducted from inmate wages under subsection (1) of this section for the purpose of contributions to the cost of incarceration shall be deposited in a dedicated fund with the department and shall be used only for the purpose of enhancing and maintaining correctional industries work programs.

~~((4))~~ (7) The expansion of inmate employment in class I and class II correctional industries shall be implemented according to the following schedule:

(a) Not later than June 30, 1995, the secretary shall achieve a net increase of at least two hundred in the number of inmates employed in class I or class II correctional industries work programs above the number so employed on June 30, 1994;

(b) Not later than June 30, 1996, the secretary shall achieve a net increase of at least four hundred in the number of inmates employed in class I or class II correctional industries work programs above the number so employed on June 30, 1994;

(c) Not later than June 30, 1997, the secretary shall achieve a net increase of at least six hundred in the number of inmates employed in class I or class II correctional industries work programs above the number so employed on June 30, 1994;

(d) Not later than June 30, 1998, the secretary shall achieve a net increase of at least nine hundred in the number of inmates employed in class I or class II correctional industries work programs above the number so employed on June 30, 1994;

(e) Not later than June 30, 1999, the secretary shall achieve a net increase of at least one thousand two hundred in the number of inmates employed in class I or class II correctional industries work programs above the number so employed on June 30, 1994;

(f) Not later than June 30, 2000, the secretary shall achieve a net increase of at least one thousand five hundred in the number of inmates employed in class I or class II correctional industries work programs above the number so employed on June 30, 1994.

~~((5))~~ (8) It shall be in the discretion of the secretary to apportion the inmates between class I and class II depending on available contracts and resources.

NEW SECTION. Sec. 26. A new section is added to chapter 51.32 RCW to read as follows:

If the department of labor and industries has received notice that an injured worker entitled to benefits payable under this chapter is in the custody of the department of corrections pursuant to a conviction and sentence, the department shall send all such benefits to the worker in care of the department of corrections, except those benefits payable to a beneficiary as provided in RCW 51.32.040 (3)(c) and (4). Failure of the department to send such benefits to the department of corrections shall not result in liability to any party for either department.

Sec. 27. RCW 51.32.040 and 1999 c 185 s 1 are each amended to read as follows:

(1) Except as provided in RCW 43.20B.720 (~~and~~), 72.09.111, 74.20A.260, and section 26 of this act, no money paid or payable under this title shall, before the issuance and delivery of the check or warrant, be assigned, charged, or taken in execution, attached, garnished, or pass or be paid to any other person by operation of law, any form of voluntary assignment, or power of attorney. Any such assignment or charge is void unless the transfer is to a financial institution at the request of a worker or other beneficiary and made in accordance with RCW 51.32.045.

(2)(a) If any worker suffers (i) a permanent partial injury and dies from some other cause than the accident which produced the injury before he or she receives payment of the award for the permanent partial injury or (ii) any other injury before he or she receives payment of any monthly installment covering any period of time before his or her death, the amount of the permanent partial disability award or the monthly payment, or both, shall be paid to the surviving spouse or the child or children if there is no surviving spouse. If there is no surviving spouse and no child or children, the award or the amount of the monthly payment shall be paid by the department or self-insurer and distributed consistent with the terms of the decedent's will or, if the decedent dies intestate, consistent with the terms of RCW 11.04.015.

(b) If any worker suffers an injury and dies from it before he or she receives payment of any monthly installment covering time loss for any period of time before his or her death, the amount of the monthly payment shall be paid to the surviving spouse or the child or children if there is no surviving spouse. If there is no surviving spouse and no child or children, the amount of the monthly payment shall be paid by the department or self-insurer and distributed consistent with the terms of the decedent's will or, if the decedent dies intestate, consistent with the terms of RCW 11.04.015.

(c) Any application for compensation under this subsection (2) shall be filed with the department or self-insuring employer within one year of the date of death. The department or self-insurer may satisfy its responsibilities under this subsection (2) by sending any payment due in the name of the decedent and to the last known address of the decedent.

(3)(a) Any worker or beneficiary receiving benefits under this title who is subsequently confined in, or who subsequently becomes eligible for benefits under this title while confined in, any institution under conviction and sentence shall have all payments of the compensation canceled during the period of confinement. After discharge from the institution, payment of benefits due afterward shall be paid if the worker or beneficiary would, except for the provisions of this subsection (3), otherwise be entitled to them.

(b) If any prisoner is injured in the course of his or her employment while participating in a work or training release program authorized by chapter 72.65 RCW and is subject to the provisions of this title, he or she is entitled to payments under this title, subject to the requirements of chapter 72.65 RCW, unless his or her participation in the program has been canceled, or unless he or she is returned to a state correctional institution, as defined in RCW 72.65.010(3), as a result of revocation of parole or new sentence.

(c) If the confined worker has any beneficiaries during the confinement period during which benefits are canceled under (a) or (b) of this subsection, they shall be paid directly the monthly benefits which would have been paid to the worker for himself or herself and the worker's beneficiaries had the worker not been confined.

(4) Any lump sum benefits to which a worker would otherwise be entitled but for the provisions of this section shall be paid on a monthly basis to his or her beneficiaries.

NEW SECTION. Sec. 28. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 29. (1) Sections 1 through 12, 20, and 28 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2003.

(2) Sections 13 through 19 and 21 through 27 of this act take effect October 1, 2003.

Passed by the Senate April 25, 2003.

Passed by the House April 24, 2003.

Approved by the Governor May 20, 2003.

Filed in Office of Secretary of State May 20, 2003.

CHAPTER 380

[Engrossed Substitute Senate Bill 6023]

COURT IMPOSED PENALTIES

AN ACT Relating to increasing certain assessments and penalties imposed by courts; amending RCW 3.62.090; reenacting and amending RCW 46.63.110; and prescribing penalties.

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

Sec. 1. RCW 3.62.090 and 2001 c 289 s 1 are each amended to read as follows:

(1) There shall be assessed and collected in addition to any fines, forfeitures, or penalties assessed, other than for parking infractions, by all courts organized under Title 3 or 35 RCW a public safety and education assessment equal to ~~((sixty))~~ seventy percent of such fines, forfeitures, or penalties, which shall be remitted as provided in chapters 3.46, 3.50, 3.62, and 35.20 RCW. The assessment required by this section shall not be suspended or waived by the court.

(2) There shall be assessed and collected in addition to any fines, forfeitures, or penalties assessed, other than for parking infractions and for fines levied under RCW 46.61.5055, and in addition to the public safety and education

assessment required under subsection (1) of this section, by all courts organized under Title 3 or 35 RCW, an additional public safety and education assessment equal to fifty percent of the public safety and education assessment required under subsection (1) of this section, which shall be remitted to the state treasurer and deposited as provided in RCW 43.08.250. The additional assessment required by this subsection shall not be suspended or waived by the court.

(3) This section does not apply to the fee imposed under RCW 46.63.110(~~((6))~~) (7) or the penalty imposed under RCW 46.63.110(~~((7))~~) (8).

Sec. 2. RCW 46.63.110 and 2002 c 279 s 15 and 2002 c 175 s 36 are each reenacted and amended to read as follows:

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

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

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

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

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

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

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

emergency medical services and trauma care system trust account under RCW 70.168.040.

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

(b) Eight dollars and fifty cents of the additional penalty under (a) of this subsection shall be remitted to the state treasurer. The remaining revenue from the additional penalty must be remitted under chapters 2.08, 3.46, 3.50, 3.62, 10.82, and 35.20 RCW. Money remitted under this subsection to the state treasurer must be deposited as provided in RCW 43.08.250. The balance of the revenue received by the county or city treasurer under this subsection must be deposited into the county or city current expense fund. Moneys retained by the city or county under this subsection shall constitute reimbursement for any liabilities under RCW 43.135.060.

Passed by the Senate April 14, 2003.

Passed by the House April 24, 2003.

Approved by the Governor May 20, 2003.

Filed in Office of Secretary of State May 20, 2003.

CHAPTER 381

[Substitute Senate Bill 5751]

PUBLIC LANDS—VALUABLE MATERIALS

AN ACT Relating to sales of valuable materials; amending RCW 79.01.184, 79.01.200, and 79.01.188; and reenacting and amending RCW 79.01.132.

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

Sec. 1. RCW 79.01.132 and 2001 c 250 s 4 and 2001 c 187 s 1 are each reenacted and amended to read as follows:

(1) When valuable materials on state lands are sold separate from the land, they may be sold as a lump sum sale or as a scale sale. Lump sum sales under five thousand dollars appraised value shall be paid for in cash on the day of sale. The initial deposit shall be maintained until all contract obligations of the purchaser are satisfied. However, all or a portion of the initial deposit may be applied as the final payment for the valuable materials in the event the department of natural resources determines that adequate security exists for the performance or fulfillment of any remaining obligations of the purchaser under the sale contract.

(2) The initial deposits required in RCW 79.01.204 may not exceed twenty-five percent of the actual or projected purchase price, but in the case of lump sum sales appraised at over five thousand dollars the initial deposit may not be less than five thousand dollars, and shall be made on the day of the sale. For those sales appraised below the amount specified in RCW 79.01.200, the

department of natural resources may require full cash payment on the day of sale.

(3) The purchaser shall notify the department of natural resources before any operation takes place on the sale site. Upon notification, the department of natural resources shall determine and require advance payment for the cutting, removal, or processing of the valuable materials, or may allow purchasers to guarantee payment by submitting as adequate security bank letters of credit, payment bonds, assignments of savings accounts, assignments of certificates of deposit, or other methods acceptable to the department as adequate security. The amount of such advance payments and/or security shall be determined by the department and at all times equal or exceed the value of timber cut and other valuable materials processed or removed until paid for.

(4) In all cases where valuable materials are sold separate from the land, the same shall revert to the state if not removed from the land within the period specified in the sale contract. The specified period shall not exceed five years from the date of the purchase thereof: PROVIDED, That the specified periods in the sale contract for stone, sand, fill material, or building stone shall not exceed thirty years.

(5) In all cases where, in the judgment of the department of natural resources, the purchaser is acting in good faith and endeavoring to remove such materials, the department of natural resources may extend the time for the removal thereof for any period not exceeding forty years from the date of purchase for the stone, sand, fill material, or building stone or for a total of ten years beyond the normal termination date specified in the original sale contract for all other material. Extension of a contract is contingent upon payment to the state of a sum to be fixed by the department of natural resources, based on the estimated loss of income per acre to the state resulting from the granting of the extension. In no event may the extension payment be less than fifty dollars per extension, plus interest on the unpaid portion of the contract. The interest rate shall be fixed, from time to time, by rule adopted by the board of natural resources and shall not be less than six percent per annum. The applicable rate of interest as fixed at the date of sale, the maximum extension payment, and the method for calculating the unpaid portion of the contract upon which such interest shall be paid by the purchaser shall be set forth in the contract. The department of natural resources shall pay into the state treasury all sums received for such extension and the same shall be credited to the fund to which was credited the original purchase price of the material so sold.

(6) A direct sale of valuable materials may be sold to the applicant for cash at full appraised value without notice or advertising. The board of natural resources shall, by resolution, establish the value amount of a direct sale not to exceed (~~twenty~~) twenty-five thousand dollars in appraised sale value, and establish procedures to assure that competitive market prices and accountability will be guaranteed.

(7) The department may, in addition to any other securities, require a performance security to guarantee compliance with all contract requirements. The security is limited to those types listed in subsection (3) of this section. The value of the performance security will, at all times, equal or exceed the value of work performed or to be performed by the purchaser.

(8) Any time that the department of natural resources sells timber by contract that includes a performance bond, the department shall require the purchaser to present proof of any and all property taxes paid prior to the release of the performance bond. Within thirty days of payment of taxes due by the timber purchaser, the county treasurer shall provide certified evidence of property taxes paid, clearly disclosing the sale contract number.

(9) The provisions of this section apply unless otherwise provided by statute. The board of natural resources shall establish procedures to protect against cedar theft and to ensure adequate notice is given for persons interested in purchasing cedar.

Sec. 2. RCW 79.01.184 and 2001 c 250 s 6 are each amended to read as follows:

When the department of natural resources shall have decided to sell any state lands or valuable materials thereon, or with the consent of the board of regents of the University of Washington, or by legislative directive, shall have decided to sell any lot, block, tract, or tracts of university lands, or the valuable materials thereon, it shall be the duty of the department to fix the date, place, and time of sale, and no sale shall be had on any day which is a legal holiday.

The department shall give notice of the sale by advertisement published not less than two times during a four week period prior to the time of sale in at least one newspaper of general circulation in the county in which the whole, or any part of any lot, block, or tract of land to be sold(~~(, or the material upon which is to be sold)~~) is situated, and by posting a copy of the notice in a conspicuous place in the department's Olympia office, the region headquarters administering such sale, and in the office of the county auditor of such county. The notice shall specify the place, date, and time of sale, the appraised value thereof, and describe with particularity each parcel of land to be sold(~~(, or from which valuable materials are to be sold)~~). In the case of valuable materials sales, the advertisement may be by newspaper or as provided in RCW 79.01.188, provided that the estimated volume will be identified and the terms of sale will be available in the region headquarters and the department's Olympia office.

The advertisement is for informational purposes only, and under no circumstances does the information in the notice of sale constitute a warranty that the purchaser will receive the stated values, volumes, or acreage. All purchasers are expected to make their own measurements, evaluations, and appraisals.

A direct sale of valuable materials may be sold to the applicant for cash at full appraised value without notice or advertising(~~(. The board of natural resources shall, by resolution, establish the value amount of a direct sale not to exceed twenty thousand dollars in appraised sale value, and establish procedures to ensure that competitive market prices and accountability will be guaranteed)~~), consistent with the provisions of RCW 79.01.132(6).

Sec. 3. RCW 79.01.200 and 1989 c 148 s 3 are each amended to read as follows:

All sales of land shall be at public auction, and all sales of valuable materials shall be at public auction or by sealed bid to the highest bidder, on the terms prescribed by law and as specified in the notice provided, and no land or materials shall be sold for less than its appraised value: PROVIDED, That on

public lands granted to the state for educational purposes sealed bids may be accepted for sales of timber or stone only: PROVIDED FURTHER, That when valuable material has been appraised at an amount not exceeding ~~((one))~~ two hundred fifty thousand dollars, the department of natural resources, when authorized by the board of natural resources, may arrange for the sale at public auction of said valuable material and for its removal under such terms and conditions as the department may prescribe, after the department shall have caused to be published not less than ten days prior to sale a notice of such sale in a newspaper of general circulation located nearest to property to be sold. In addition, the commissioner of public lands may seek additional means of publishing the information, such as on the internet, to increase the number of prospective buyers. This section does not apply to direct sales authorized in RCW 79.01.184.

Sec. 4. RCW 79.01.188 and 2001 c 250 s 7 are each amended to read as follows:

(1) The commissioner of public lands shall cause to be printed a list of all public lands, or valuable materials thereon, and the appraised value thereof, that are to be sold. This list should be published in a pamphlet form to be issued at least four weeks prior to the date of any sale of the lands or valuable materials thereon. The list should be organized by county and by alphabetical order, and provide sale information to prospective buyers. The commissioner of public lands shall retain for free distribution in his or her office and the region offices sufficient copies of the pamphlet, to be kept in a conspicuous place, and, when requested so to do, shall mail copies of the pamphlet as issued to any requesting applicant. The commissioner of public lands may seek additional means of publishing the information in the pamphlet, such as on the internet, to increase the number of prospective buyers.

(2) The sale of valuable materials appraised at an amount not exceeding two hundred ~~fift~~ thousand dollars as described in RCW 79.01.200 and as authorized by the board of natural resources, are exempt from the requirements of subsection (1) of this section.

Passed by the Senate April 21, 2003.

Passed by the House April 14, 2003.

Approved by the Governor May 20, 2003.

Filed in Office of Secretary of State May 20, 2003.

CHAPTER 382

[Engrossed Senate Bill 5389]

DRUG AND ALCOHOL FREE HOUSING

AN ACT Relating to clean and sober housing; adding a new section to chapter 59.18 RCW; and prescribing penalties.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 59.18 RCW to read as follows:

(1) For the purpose of this section, "drug and alcohol free housing" requires a rental agreement and means a dwelling in which:

(a) Each of the dwelling units on the premises is occupied or held for occupancy by at least one tenant who is a recovering alcoholic or drug addict and is participating in a program of recovery;

(b) The landlord is a nonprofit corporation incorporated under Title 24 RCW, a corporation for profit incorporated under Title 23B RCW, or a housing authority created under chapter 35.82 RCW, and is providing federally assisted housing as defined in chapter 59.28 RCW;

(c) The landlord provides:

(i) A drug and alcohol free environment, covering all tenants, employees, staff, agents of the landlord, and guests;

(ii) An employee who monitors the tenants for compliance with the requirements of (d) of this subsection;

(iii) Individual and group support for recovery; and

(iv) Access to a specified program of recovery; and

(d) The rental agreement is in writing and includes the following provisions:

(i) The tenant may not use, possess, or share alcohol, illegal drugs, controlled substances, or prescription drugs without a medical prescription, either on or off the premises;

(ii) The tenant may not allow the tenant's guests to use, possess, or share alcohol, illegal drugs, controlled substances, or prescription drugs without a medical prescription, on the premises;

(iii) The tenant must participate in a program of recovery, which specific program is described in the rental agreement;

(iv) On at least a quarterly basis the tenant must provide written verification from the tenant's program of recovery that the tenant is participating in the program of recovery and the tenant has not used alcohol or illegal drugs;

(v) The landlord has the right to require the tenant to take a urine analysis test regarding drug or alcohol usage, at the landlord's discretion and expense; and

(vi) The landlord has the right to terminate the tenant's tenancy by delivering a three-day notice to terminate with one day to comply, if a tenant living in drug and alcohol free housing uses, possesses, or shares alcohol, illegal drugs, controlled substances, or prescription drugs without a medical prescription.

(2) For the purpose of this section, "program of recovery" means a verifiable program of counseling and rehabilitation treatment services, including a written plan, to assist recovering alcoholics or drug addicts to recover from their addiction to alcohol or illegal drugs while living in drug and alcohol free housing. A "program of recovery" includes Alcoholics Anonymous, Narcotics Anonymous, and similar programs.

(3) If a tenant living for less than two years in drug and alcohol free housing uses, possesses, or shares alcohol, illegal drugs, controlled substances, or prescription drugs without a medical prescription, the landlord may deliver a written notice to the tenant terminating the tenancy for cause as provided in this subsection. The notice must specify the acts constituting the drug or alcohol violation and must state that the rental agreement terminates in not less than three days after delivery of the notice, at a specified date and time. The notice must also state that the tenant can cure the drug or alcohol violation by a change in conduct or otherwise within one day after delivery of the notice. If the tenant

cures the violation within the one-day period, the rental agreement does not terminate. If the tenant does not cure the violation within the one-day period, the rental agreement terminates as provided in the notice. If substantially the same act that constituted a prior drug or alcohol violation of which notice was given reoccurs within six months, the landlord may terminate the rental agreement upon at least three days' written notice specifying the violation and the date and time of termination of the rental agreement. The tenant does not have a right to cure this subsequent violation.

(4) Notwithstanding subsections (1), (2), and (3) of this section, federally assisted housing that is occupied on other than a transient basis by persons who are required to abstain from possession or use of alcohol or drugs as a condition of occupancy and who pay for the use of the housing on a periodic basis, without regard to whether the payment is characterized as rent, program fees, or other fees, costs, or charges, are covered by this chapter unless the living arrangement is exempt under RCW 59.18.040.

Passed by the Senate April 26, 2003.

Passed by the House April 24, 2003.

Approved by the Governor May 20, 2003.

Filed in Office of Secretary of State May 20, 2003.

CHAPTER 383

[House Bill 1980]

WORKFIRST—SKILLS ASSESSMENT

AN ACT Relating to work activity requirements under the temporary assistance for needy families program; and amending RCW 74.08A.260, 74.08A.275, and 74.08A.285.

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

Sec. 1. RCW 74.08A.260 and 1997 c 58 s 313 are each amended to read as follows:

~~((Recipients who have not obtained paid, unsubsidized employment by the end of the job search component authorized in section 312 of this act shall be referred to a work activity.))~~

(1) Each recipient shall be assessed ~~((immediately upon completion of the job search component))~~ after determination of program eligibility and before referral to job search. Assessments shall be based upon factors that are critical to obtaining employment, including but not limited to education, ~~((employment strengths, and employment history))~~ availability of child care, history of family violence, history of substance abuse, and other factors that affect the ability to obtain employment. Assessments may be performed by the department or by a contracted entity. The assessment shall be based on a uniform, consistent, transferable format that will be accepted by all agencies and organizations serving the recipient. Based on the assessment, an individual responsibility plan shall be prepared that: (a) Sets forth an employment goal and a plan for moving the recipient immediately into employment; (b) contains the obligation of the recipient to become and remain employed; (c) moves the recipient into whatever employment the recipient is capable of handling as quickly as possible; and (d) describes the services available to the recipient to enable the recipient to obtain and keep employment.

(2) Recipients who are not engaged in work and work activities, and do not qualify for a good cause exemption under RCW 74.08A.270, shall engage in self-directed service as provided in RCW 74.08A.330.

(3) If a recipient refuses to engage in work and work activities required by the department, the family's grant shall be reduced by the recipient's share, and may, if the department determines it appropriate, be terminated.

(4) The department may waive the penalties required under subsection (3) of this section, subject to a finding that the recipient refused to engage in work for good cause provided in RCW 74.08A.270.

(5) In implementing this section, the department shall assign the highest priority to the most employable clients, including adults in two-parent families and parents in single-parent families that include older preschool or school-age children to be engaged in work activities.

(6) In consultation with the recipient, the department or contractor shall place the recipient into a work activity that is available in the local area where the recipient resides.

Sec. 2. RCW 74.08A.275 and 1999 c 340 s 1 are each amended to read as follows:

Each recipient approved to receive temporary assistance for needy families shall be subject to an employability screening under RCW 74.08A.260 after determination of program eligibility and before referral to job search. If the employability screening determines the recipient is not employable, or meets the criteria specified in RCW 74.08A.270 for a good cause exemption to work requirements, the department shall defer the job search requirement under RCW 74.08A.285 (~~and refer the recipient immediately to the assessment procedure required under RCW 74.08A.260~~).

Sec. 3. RCW 74.08A.285 and 1998 c 89 s 1 are each amended to read as follows:

The WorkFirst program operated by the department to meet the federal work requirements specified in P.L. 104-193 shall contain a job search component. The component shall consist of instruction on how to secure a job and assisted job search activities to locate and retain employment. Nonexempt recipients of temporary assistance for needy families shall participate in an initial job search for no more than twelve consecutive weeks. Each recipient shall receive a work skills assessment upon referral to the job search program. The work skills assessment shall include but not be limited to education, employment history, employment strengths, and job skills. The recipient's ability to obtain employment will be reviewed (~~within the first four weeks of job search and~~) periodically thereafter and, if it is clear at any time that further participation in a job search will not be productive, the department shall assess the recipient pursuant to RCW 74.08A.260. The department shall refer recipients unable to find employment through the initial job search period to work activities that will develop their skills or knowledge to make them more employable, including additional job search and job readiness assistance.

Passed by the House April 24, 2003.

Passed by the Senate April 14, 2003.

Approved by the Governor May 20, 2003.

Filed in Office of Secretary of State May 20, 2003.

CHAPTER 384

[Substitute House Bill 1849]

HEALTH CARE PROVIDERS—VOLUNTEERS

AN ACT Relating to creating a list of health care providers willing to serve as volunteer resources; and adding a new section to chapter 43.70 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 43.70 RCW to read as follows:

(1) The department is authorized to contact persons issued credentials under this title for the purpose of requesting permission to collect his or her name, profession, and contact information as a possible volunteer in the event of a bioterrorism incident, natural disaster, public health emergency, or other emergency or disaster, as defined in RCW 38.52.010, that requires the services of health care providers.

(2) The department shall maintain a record of all volunteers who provide information under subsection (1) of this section. Upon request, the department shall provide the record of volunteers to:

- (a) Local health departments;
- (b) State agencies engaged in public health emergency planning and response, including the state military department;
- (c) Agencies of other states responsible for public health emergency planning and response; and
- (d) The centers for disease control and prevention.

Passed by the House March 14, 2003.

Passed by the Senate April 17, 2003.

Approved by the Governor May 20, 2003.

Filed in Office of Secretary of State May 20, 2003.

CHAPTER 385

[Substitute House Bill 1512]

WILDLIFE—CROP DAMAGE

AN ACT Relating to controlling game damage to crops; and amending RCW 77.36.020 and 77.12.150.

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

Sec. 1. RCW 77.36.020 and 1996 c 54 s 3 are each amended to read as follows:

The department shall work closely with landowners and tenants suffering game damage problems to control damage without killing the animals when practical, to increase the harvest of damage-causing animals in hunting seasons, and to kill the animals when no other practical means of damage control is feasible.

If the department receives recurring complaints regarding property being damaged as described in this section or RCW 77.36.030 from the owner or tenant of real property, or receives such complaints from several such owners or tenants in a locale, the commission shall ~~((consider conducting))~~ conduct a special hunt or special hunts or take remedial action to reduce the potential for such damage. The commission shall authorize either one or two antlerless

permits per hunter for special hunts held in damage areas where qualified department staff, or their designee, have confirmed six incidents of crop damage by deer or elk.

As an alternative to hunting, the department shall work with affected entities to relocate deer and elk when needed to augment existing herds.

Sec. 2. RCW 77.12.150 and 1987 c 506 s 24 are each amended to read as follows:

(1) By emergency rule only, and in accordance with criteria established by the commission, the director may close or shorten a season for game animals, game birds, or game fish, and after a season has been closed or shortened, may reopen it and reestablish bag limits on game animals, game birds, or game fish during that season. The director shall advise the commission of the adoption of emergency rules. A copy of an emergency rule, certified as a true copy by the director or by a person authorized in writing by the director to make the certification, is admissible in court as prima facie evidence of the adoption and validity of the rule.

(2)(a) If the director finds that game animals have increased in numbers in an area of the state so that they are damaging public or private property or over-utilizing their habitat, the commission may establish a special hunting season and designate the time, area, and manner of taking and the number and sex of the animals that may be killed or possessed by a licensed hunter. ~~((The director shall determine by random selection the identity of hunters who may hunt within the area and shall determine the conditions and requirements of the selection process.))~~ The director shall include notice of the special season in the rules establishing open seasons.

(b) When the department receives six complaints concerning damage to commercial agricultural and horticultural crop production by wildlife from the owner or tenant of real property, or from several owners or tenants in a locale, the commission shall conduct a special hunt or special hunts or take remedial action to reduce the potential for the damage, and shall authorize either one or two permits per hunter. Each complaint must be confirmed by qualified department staff, or their designee.

(c) The director shall determine by random selection the identity of hunters who may hunt within the area of the special hunt and shall determine the conditions and requirements of the selection process. Within this process, the department must maintain a list of all persons holding valid wildlife hunting licenses, arranged by county of residence, who may hunt deer or elk that are causing damage to crops. The department must update the list annually and utilize the list when contacting persons to assist in controlling game damage to crops. The department must make all reasonable efforts to contact individuals residing within the county where the hunting of deer or elk will occur before contacting a person who is not a resident of that county. The department must randomize the names of people on the list in order to provide a fair distribution of the hunting opportunities. Hunters who participate in hunts under this section must report any kills to the department. The department must include a summary of the wildlife harvested in these hunts in the annual game management reports it makes available to the public.

Passed by the House April 21, 2003.

Passed by the Senate April 11, 2003.

Approved by the Governor May 20, 2003.
Filed in Office of Secretary of State May 20, 2003.

CHAPTER 386

[Substitute House Bill 1057]

COMMERCIAL FISHING VIOLATIONS

AN ACT Relating to commercial fishing violations; amending RCW 77.15.700 and 77.65.030; adding new sections to chapter 77.15 RCW; creating a new section; and declaring an emergency.

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

NEW SECTION. Sec. 1. (1)(a) The legislature finds that existing law as it relates to the suspension of commercial fishing licenses does not take into account the real-life circumstances faced by the state's commercial fishing fleets. The nature of the commercial fishing industry, together with the complexity of fisheries regulations, is such that honest mistakes can be made by well-meaning and otherwise law-abiding fishers. Commercial fishing violations that occur within an acceptable margin of error should not result in the suspension of fishing privileges. Likewise, fishers facing the possibility of license suspension or revocation deserve the opportunity to explain any extenuating circumstances prior to having his or her professional privileges suspended.

(b) The legislature intends, by creating the license suspension review committee, to provide a fisher with the opportunity to explain any extenuating circumstances that led to a commercial fishing violation. The legislature intends for the license suspension review committee to give serious considerations to the case-specific facts and scenarios leading up to a violation, and for license suspensions to issue only when the facts indicate a willful act that undermines the conservation of fish stocks. Frivolous violations should not result in the suspension of privileges, and should be punished only by the criminal sanctions attached to the underlying crime.

(2)(a) The legislature further finds that gross abuses of fish stocks should not be tolerated. Individuals convicted of even one violation that is egregious in nature, causing serious detriment to a fishery or the competitive disposition of other fishers, should have his or her license suspended and revoked.

(b) The legislature intends for the license suspension review committee to take egregious fisheries' violations seriously. When dealing with individuals convicted of only one violation, the license suspension review committee should only consider suspension for individuals that are convicted of violations that are of a severe magnitude and show a wanton disregard for the public's resource.

Sec. 2. RCW 77.15.700 and 2001 c 253 s 46 are each amended to read as follows:

The department shall impose revocation and suspension of privileges upon conviction in the following circumstances:

(1) If directed by statute for an offense;

(2) If the department finds that actions of the defendant demonstrated a willful or wanton disregard for conservation of fish or wildlife. Such suspension of privileges may be permanent. This subsection (2) does not apply to violations involving commercial fishing;

(3) If a person is convicted twice within ten years for a violation involving unlawful hunting, killing, or possessing big game, the department shall order revocation and suspension of all hunting privileges for two years. RCW 77.12.722 or 77.16.050 as it existed before June 11, 1998, may comprise one of the convictions constituting the basis for revocation and suspension under this subsection;

(4) If a person is convicted three times in ten years of any violation of recreational hunting or fishing laws or rules, the department shall order a revocation and suspension of all recreational hunting and fishing privileges for two years(;

~~(5) If a person is convicted twice within five years of a gross misdemeanor or felony involving unlawful commercial fish or shellfish harvesting, buying, or selling, the department shall impose a revocation and suspension of the person's commercial fishing privileges for one year. A commercial fishery license revoked under this subsection may not be used by an alternate operator or transferred during the period of suspension)).~~

NEW SECTION. Sec. 3. A new section is added to chapter 77.15 RCW to read as follows:

(1) If a person is convicted of two or more qualifying commercial fishing violations within a three-year period, the person's privileges to participate in the commercial fishery to which the violations applied may be suspended by the director for up to one year. A commercial fishery license that is suspended under this section may not be transferred after the director issues a notice of suspension, or used by an alternative operator or transferred during the period of suspension, if the person who is the subject of the suspension notice is the person who owns the commercial fishery license.

(2) For the purposes of this section only, "qualifying commercial fishing violation" means either:

(a) A conviction under RCW 77.15.500, 77.15.510, 77.15.520, 77.15.530, 77.15.550(1)(a), 77.15.570, 77.15.580, or 77.15.590;

(b) A gross misdemeanor or felony involving commercial fish harvesting, buying, or selling that is unlawful under the terms of the license, this title, or the rules issued pursuant to this title, if the quantity of unlawfully harvested, possessed, bought, or sold fish, other than shellfish, groundfish, or coastal pelagic species of baitfish totals greater than six percent, by weight, of the harvest available for inspection at the time of citation and the cumulative value of the unlawfully harvested fish is more than two hundred fifty dollars at the time of citation;

(c) A gross misdemeanor or felony involving commercial groundfish or coastal pelagic baitfish harvest, buying, or selling that is unlawful under the terms of the license, this title, or the rules issued under this title, if: (i) The quantity of unlawfully harvested, possessed, bought, or sold groundfish or coastal pelagic baitfish totals greater than ten percent, by weight, of the harvest available for inspection at the time of citation and has a cumulative value greater than five hundred dollars; or (ii) the quantity, by weight, of the unlawfully commercially harvested groundfish or coastal pelagic baitfish is ten percent greater than the landing allowances provided under rules adopted by the department for species categorized as over-fished by the national marine fisheries service; or

(d) A gross misdemeanor or felony involving commercial shellfish harvesting, buying, or selling that is unlawful under the terms of the license, this title, or the rules issued pursuant to this title, if the quantity of unlawfully harvested, possessed, bought, or sold shellfish: (i) Totals greater than six percent of the harvest available for inspection at the time of citation; and (ii) totals fifty or more individual shellfish.

(3)(a) The director may refer a person convicted of one qualifying commercial fishing violation to the license suspension review committee if the director feels that the qualifying commercial fishing violation was of a severe enough magnitude to justify suspension of the individual's license renewal privileges.

(b) The director may refer any person convicted of one egregious shellfish violation to the license suspension review committee.

(c) For the purposes of this section only, "egregious shellfish violation" means a gross misdemeanor or felony involving commercial shellfish harvesting, buying, or selling that is unlawful under the terms of the license, this title, or the rules issued pursuant to this title, if the quantity of unlawfully harvested, possessed, bought, or sold shellfish: (i) Totals more than twenty percent of the harvest available for inspection at the time of citation; (ii) totals five hundred or more individual shellfish; and (iii) is valued at two thousand five hundred dollars or more.

(4) A person who has a commercial fishing license suspended or revoked under this section may file an appeal with the license suspension review committee pursuant to section 4 of this act. An appeal must be filed within thirty-one days of notice of license suspension or revocation. If an appeal is filed, the suspension or revocation issued by the department does not take effect until after the license suspension review committee has delivered an opinion. If no appeal is filed within thirty-one days of notice of license suspension or revocation, the right to an appeal is considered waived. All suspensions ordered under this section take effect either thirty-one days following the conviction for the second qualifying commercial fishing violation, or upon a decision pursuant to section 4 of this act, whichever is later.

(5) A fishing privilege suspended under this section is in addition to the statutory penalties assigned to the underlying crime.

(6) For the purposes of this section only, the burden is on the state to show the dollar amount or the percent of a harvest that is comprised of unlawfully harvested, bought, or sold individual fish or shellfish.

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

(1) The license suspension review committee is created. The license suspension review committee may only hear appeals from commercial fishers who have had a license revoked or suspended pursuant to section 3 of this act.

(2)(a) The license suspension review committee is composed of five voting members and up to four alternates.

(b) Two of the members must be appointed by the director and may be department employees.

(c) Three members, and up to four alternates, must be peer-group members, who are individuals owning a commercial fishing license issued by the department. If a peer-group member appears before the license suspension

review committee because of a qualifying commercial fishing violation, the member must recuse himself or herself from the proceedings relating to that violation. No two voting peer-group members may reside in the same county. All peer-group members must be appointed by the commission, who may accept recommendations from professional organizations that represent commercial fishing interests or from the legislative authority of any Washington county.

(d) All license suspension review committee members serve a two-year renewable term.

(e) The commission may develop minimum member standards for service on the license suspension review committee, and standards for terminating a member before the expiration of his or her term.

(3) The license suspension review committee must convene and deliver an opinion on a license renewal suspension within three months of appeal or of referral from the department. The director shall consider the committee's opinion and make a decision and may issue, not issue, or modify the license suspension.

(4) The license suspension review committee shall collect the information and hear the testimony that it feels necessary to deliver an opinion on the proper length, if any, of a suspension of a commercial license. The opinion may be based on extenuating circumstances presented by the individual convicted of the qualifying commercial fishing violation or considerations of the type and magnitude of violations that have been committed by the individual. The maximum length of any suspension may not exceed one year.

(5) All opinions of the license suspension review committee must be by a majority vote of all voting members. Alternate committee members may only vote when one of the voting members is unavailable, has been recused, or has decided not to vote on the case before the committee. Nonvoting alternates may be present and may participate at all license suspension review committee meetings.

(6) Members of the license suspension review committee serve as volunteers, and are not eligible for compensation other than travel expenses pursuant to RCW 43.03.050 and 43.03.060.

(7) Staff of the license suspension review committee must be provided by the department.

Sec. 5. RCW 77.65.030 and 2001 c 244 s 2 are each amended to read as follows:

The application deadline for a commercial license or permit established in this chapter is December 31st of the calendar year for which the license or permit is sought. The department shall accept no license or permit applications after December 31st of the calendar year for which the license or permit is sought. The application deadline in this section does not apply to a license or permit that has not been renewed because of the death or incapacity of the license or permit holder. The license or permit holder's surviving spouse, estate, ~~((or))~~ estate beneficiary, attorney in fact, or guardian must be given ~~((a reasonable opportunity))~~ an additional one hundred eighty days to renew the license or permit.

NEW SECTION. Sec. 6. Section 5 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the

state government and its existing public institutions, and takes effect immediately.

Passed by the House April 24, 2003.

Passed by the Senate April 23, 2003.

Approved by the Governor May 20, 2003.

Filed in Office of Secretary of State May 20, 2003.

CHAPTER 387

[Substitute House Bill 1127]

COMMERCIALLY HARVESTED FISH—RETAIL SALE

AN ACT Relating to the selling of commercially harvested fish; and amending RCW 77.08.010, 77.65.510, 77.65.515, 77.65.520, 36.71.090, and 82.27.020.

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

Sec. 1. RCW 77.08.010 and 2002 c 281 s 2 are each amended to read as follows:

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

- (1) "Director" means the director of fish and wildlife.
- (2) "Department" means the department of fish and wildlife.
- (3) "Commission" means the state fish and wildlife commission.
- (4) "Person" means and includes an individual; a corporation; a public or private entity or organization; a local, state, or federal agency; all business organizations, including corporations and partnerships; or a group of two or more individuals acting with a common purpose whether acting in an individual, representative, or official capacity.
- (5) "Fish and wildlife officer" means a person appointed and commissioned by the director, with authority to enforce this title and rules adopted pursuant to this title, and other statutes as prescribed by the legislature. Fish and wildlife officer includes a person commissioned before June 11, 1998, as a wildlife agent or a fisheries patrol officer.
- (6) "Ex officio fish and wildlife officer" means a commissioned officer of a municipal, county, state, or federal agency having as its primary function the enforcement of criminal laws in general, while the officer is in the appropriate jurisdiction. The term "ex officio fish and wildlife officer" includes special agents of the national marine fisheries service, state parks commissioned officers, United States fish and wildlife special agents, department of natural resources enforcement officers, and United States forest service officers, while the agents and officers are within their respective jurisdictions.
- (7) "To hunt" and its derivatives means an effort to kill, injure, capture, or harass a wild animal or wild bird.
- (8) "To trap" and its derivatives means a method of hunting using devices to capture wild animals or wild birds.
- (9) "To fish," "to harvest," and "to take," and their derivatives means an effort to kill, injure, harass, or catch a fish or shellfish.
- (10) "Open season" means those times, manners of taking, and places or waters established by rule of the commission for the lawful hunting, fishing, taking, or possession of game animals, game birds, game fish, food fish, or

shellfish that conform to the special restrictions or physical descriptions established by rule of the commission or that have otherwise been deemed legal to hunt, fish, take, harvest, or possess by rule of the commission. "Open season" includes the first and last days of the established time.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) Threatens or harms human health.

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

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

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

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

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

(55) "Retail-eligible species" means commercially harvested salmon, crab, and sturgeon.

Sec. 2. RCW 77.65.510 and 2002 c 301 s 2 are each amended to read as follows:

(1) The department must establish and administer a direct retail endorsement to serve as a single license that permits the holder of a Washington (~~((salmon or crab commercial fishing))~~) license to commercially harvest retail-eligible species and to clean, dress, and sell his or her catch directly to consumers at retail, including over the internet. The direct retail endorsement must be issued as an optional addition to all holders of a (~~((salmon or crab))~~) commercial fishing license for retail-eligible species that the department offers under this chapter.

(2) The direct retail endorsement must be offered at the time of application for the qualifying commercial fishing license. Individuals in possession of a qualifying commercial fishing license issued under this chapter may add a direct

retail endorsement to their current license at ~~((the))~~ any time ~~((they renew their commercial fishing license))~~. Individuals who do not have a commercial fishing license for ~~((salmon or crab))~~ retail-eligible species issued under this chapter may not receive a direct retail endorsement. The costs, conditions, responsibilities, and privileges associated with the endorsed commercial fishing license is not affected or altered in any way by the addition of a direct retail endorsement. These costs include the base cost of the license and any revenue and excise taxes.

(3) An individual need only add one direct retail endorsement to his or her license portfolio. If a direct retail endorsement is selected by an individual holding more than one commercial fishing license issued under this chapter, a single direct retail endorsement is considered to be added to all qualifying commercial fishing licenses held by that individual, and is the only license required for the individual to sell at retail ~~((the harvest of salmon or crab))~~ any retail-eligible species permitted by all of the underlying endorsed licenses. The direct retail endorsement applies only to the person named on the endorsed license, and may not be used by an alternate operator named on the endorsed license.

(4) In addition to any fees charged for the endorsed licenses and harvest documentation as required by this chapter or the rules of the department, the department may set a reasonable annual fee not to exceed the administrative costs to the department for a direct retail endorsement.

(5) The holder of a direct retail endorsement is responsible for documenting the commercial harvest of salmon and crab according to the provisions of this chapter, the rules of the department for a wholesale fish dealer, and the reporting requirements of the endorsed license. Any ~~((salmon or crab))~~ retail-eligible species caught by the holder of a direct retail endorsement must be ~~((landed in the ground and))~~ documented on fish tickets~~((, as provided for by the department, before further processing))~~.

(6) The direct retail endorsement must be displayed in a readily visible manner by the seller wherever and whenever a sale to someone other than a licensed wholesale dealer occurs. The commission may require that the holder of a direct retail endorsement notify the department up to eighteen hours before conducting an in-person sale of retail-eligible species, except for in-person sales that have a cumulative retail sales value of less than one hundred fifty dollars in a twenty-four hour period that are sold directly from the vessel. For sales occurring in a venue other than in person, such as over the internet, through a catalog, or on the phone, the direct retail endorsement number of the seller must be provided to the buyer both at the time of sale and the time of delivery. All internet sales must be conducted in accordance with federal laws and regulations.

(7) The direct retail endorsement is to be held by a natural person and is not transferrable or assignable. If the endorsed license is transferred, the direct retail endorsement immediately becomes void, and the transferor is not eligible for a full or prorated reimbursement of the annual fee paid for the direct retail endorsement. Upon becoming void, the holder of a direct retail endorsement must surrender the physical endorsement to the department.

(8) The holder of a direct retail endorsement must abide by the provisions of Title 69 RCW as they apply to the processing and retail sale of seafood. The

department must distribute a pamphlet, provided by the department of agriculture, with the direct retail endorsement generally describing the labeling requirements set forth in chapter 69.04 RCW as they apply to seafood.

(9) The holder of a qualifying commercial fishing license issued under this chapter must either possess a direct retail endorsement or a wholesale dealer license provided for in RCW 77.65.280 in order to lawfully sell their catch or harvest in the state to anyone other than a licensed wholesale dealer.

(10) The direct retail endorsement entitles the holder to sell (~~wild-caught salmon or crab~~) a retail-eligible species only at a temporary food service establishment as that term is defined in RCW 69.06.045, or directly to a restaurant or other similar food service business.

Sec. 3. RCW 77.65.515 and 2002 c 301 s 3 are each amended to read as follows:

(1) Prior to being issued a direct retail endorsement, an individual must:

(a) Obtain and submit to the department a signed letter on appropriate letterhead from the health department of the county in which the individual makes his or her official residence or where the hailing port for any documented vessel owned by the individual is located as to the fulfillment of all requirements related to county health rules, including the payment of all required fees. The local health department generating the letter may charge a reasonable fee for any necessary inspections. The letter must certify that the methods used by the individual to transport, store, and display any fresh (~~salmon and crabs~~) retail-eligible species meets that county's standards and the statewide standards adopted by the board of health for food service operations; and

(b) Submit proof to the department that the individual making the direct retail sales is in possession of a valid food and beverage service worker's permit, as provided for in chapter 69.06 RCW.

(2) The requirements of subsection (1) of this section must be completed each license year before a renewal direct retail endorsement can be issued.

(3) Any individual possessing a direct retail endorsement must notify the local health department of the county in which retail sales are to occur, except for the county that conducted the initial inspection, forty-eight hours before any transaction and make his or her facilities available for inspection by a fish and wildlife officer, the local health department of any county in which he or she sells (~~salmon or crab~~) any legally harvested retail-eligible species, and any designee of the department of health or the department of agriculture.

(4) Neither the department or a local health department may be held liable in any judicial proceeding alleging that consumption of or exposure to seafood sold by the holder of a direct retail endorsement resulted in a negative health consequence, as long as the department can show that the individual holding the direct retail endorsement complied with the requirements of subsection (1) of this section prior to being issued his or her direct retail license, and neither the department nor a local health department acted in a reckless manner. For the purposes of this subsection, the department or a local health district shall not be deemed to be acting recklessly for not conducting a permissive inspection.

Sec. 4. RCW 77.65.520 and 2002 c 301 s 4 are each amended to read as follows:

(1) The direct retail endorsement is conditioned upon compliance:

(a) With the requirements of this chapter as they apply to wholesale fish dealers and to the rules of the department relating to the payment of fines for violations of rules for the accounting of the commercial harvest of (~~salmon or erabs~~) retail eligible species; and

(b) With the state board of health and local rules for food service establishments.

(2) Violations of the requirements and rules referenced in subsection (1) of this section may result in the suspension of the direct retail endorsement. The suspended individual must not be reimbursed for any portion of the suspended endorsement. Suspension of the direct retail endorsement may not occur unless and until:

(a) The director has notified by order the holder of the direct retail endorsement when a violation of subsection (1) of this section has occurred. The notification must specify the type of violation, the liability to be imposed for damages caused by the violation, a notice that the amount of liability is due and payable by the holder of the direct retail endorsement, and an explanation of the options available to satisfy the liability; and

(b) The holder of the direct retail endorsement has had at least ninety days after the notification provided in (a) of this subsection was received to either make full payment for all liabilities owed or enter into an agreement with the department to pay off all liabilities within a reasonable time.

(3)(a) If, within ninety days after receipt of the order provided in subsection (2)(a) of this section, the amount specified in the order is not paid or the holder of the direct retail endorsement has not entered into an agreement with the department to pay off all liabilities, the prosecuting attorney for any county in which the persons to whom the order is directed do business, or the attorney general upon request of the department, may bring an action on behalf of the state in the superior court for Thurston county, or any county in which the persons to whom the order is directed do business, to seek suspension of the individual's direct retail endorsement for up to five years.

(b) The department may temporarily suspend the privileges provided by the direct retail endorsement for up to one hundred twenty days following the receipt of the order provided in subsection (2)(a) of this section, unless the holder of the direct retail endorsement has deposited with the department an acceptable performance bond on forms prescribed and provided by the department. This performance bond must be a corporate surety bond executed in favor of the department by a corporation authorized to do business in the state of Washington under chapter 48.28 RCW and approved by the department. The bond must be filed and maintained in an amount equal to one thousand dollars.

(4) For violations of state board of health and local rules under subsection (1)(b) of this section only, any person inspecting the facilities of a direct retail endorsement holder under RCW 77.65.515 may suspend the privileges granted by the endorsement for up to seven days. Within twenty-four hours of the discovery of the violation, the inspecting entity must notify the department of the violation. Upon notification, the department may proceed with the procedures outlined in this section for suspension of the endorsement. If the violation of a state board of health rule is discovered by a local health department, that local jurisdiction may fine the holder of the direct retail endorsement according to the local jurisdiction's rules as they apply to retail food operations.

(5) Subsections (2) and (3) of this section do not apply to a holder of a direct retail endorsement that executes a surety bond and abides by the conditions established in RCW 77.65.320 and 77.65.330 as they apply to wholesale dealers.

Sec. 5. RCW 36.71.090 and 2002 c 301 s 9 are each amended to read as follows:

(1) It shall be lawful for any farmer, gardener, or other person, without license, to sell, deliver, or peddle any fruits, vegetables, berries, eggs, or any farm produce or edibles raised, gathered, produced, or manufactured by such person and no city or town shall pass or enforce any ordinance prohibiting the sale by or requiring license from the producers and manufacturers of farm produce and edibles as ~~((herein))~~ defined ~~((:—PROVIDED, That))~~ in this section. ~~However,~~ nothing ((herein)) in this section authorizes any person to sell, deliver, or peddle, without license, in any city or town, any dairy product, meat, poultry, eel, fish, mollusk, or shellfish where a license is required to engage legally in such activity in such city or town.

(2) It is lawful for an individual in possession of a valid direct retail endorsement, as established in RCW 77.65.510, to sell, deliver, or peddle ~~((wild-caught salmon or crab))~~ any legally harvested retail-eligible species, as that term is defined in RCW 77.08.010, that is caught, harvested, or collected under rule of the department of fish and wildlife by such a person at a temporary food service establishment, as that term is defined in RCW 69.06.045, and no city, town, or county may pass or enforce an ordinance prohibiting the sale by or requiring additional licenses or permits from the holder of the valid direct retail endorsement. However, this subsection does not prohibit a city, town, or county from inspecting an individual displaying a direct retail endorsement to verify that the person is in compliance with state board of health and local rules for food service operations.

***Sec. 6.** RCW 82.27.020 and 2001 c 320 s 9 are each amended to read as follows:

(1) *In addition to all other taxes, licenses, or fees provided by law there is established an excise tax on the commercial possession of enhanced food fish as provided in this chapter. The tax is levied upon and shall be collected from the owner of the enhanced food fish whose possession constitutes the taxable event. The taxable event is the first possession in Washington by an owner after the enhanced food fish has been landed. Processing and handling of enhanced food fish by a person who is not the owner is not a taxable event to the processor or handler.*

(2) *A person in possession of enhanced food fish and liable to this tax may deduct from the price paid to the person from which the enhanced food fish (except oysters) are purchased an amount equal to a tax at one-half the rate levied in this section upon these products.*

(3) *The measure of the tax ~~((is the value of the))~~ for all enhanced food fish, including retail-eligible fish sold with a direct retail endorsement pursuant to RCW 77.65.510, is the comparable sales price for similar species of fish at the point of landing.*

(4) *The tax shall be equal to the measure of the tax multiplied by the rates for enhanced food fish as follows:*

(a) *Chinook, coho, and chum salmon and anadromous game fish: Five and twenty-five one-hundredths percent;*

(b) *Pink and sockeye salmon: Three and fifteen one-hundredths percent;*

(c) *Other food fish and shellfish, except oysters, sea urchins, and sea cucumbers: Two and one-tenth percent;*

(d) *Oysters: Eight one-hundredths of one percent;*

(e) *Sea urchins: Four and six-tenths percent through December 31, 2005, and two and one-tenth percent thereafter; and*

(f) *Sea cucumbers: Four and six-tenths percent through December 31, 2005, and two and one-tenth percent thereafter.*

(5) *An additional tax is imposed equal to the rate specified in RCW 82.02.030 multiplied by the tax payable under subsection (4) of this section.*

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

Passed by the House April 21, 2003.

Passed by the Senate April 11, 2003.

Approved by the Governor May 20, 2003, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 20, 2003.

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

"I am returning herewith, without my approval as to section 6, Substitute House Bill No. 1127 entitled:

"AN ACT Relating to the selling of commercially harvested fish;"

This bill expands the scope of the direct retail endorsement. The endorsement is an optional add-on to a commercial fishing license that allows the holder to sell salmon, crab, and sturgeon directly into the retail market.

Section 6 would have changed the tax base for the enhanced food fish tax from "value" to "comparable sales price for similar species of fish." This new tax base would be applicable to all food fish, not just to food fish sold pursuant to the direct retail endorsement. The new tax base is undefined and would deprive taxpayers of certainty. Its administration would be burdensome and complicated for both the industry and the Department of Revenue.

I am directing the Department of Revenue to work with the concerned parties to resolve issues surrounding the tax base of food fish sold pursuant to a direct retail endorsement. This should involve education on the current application of the tax, as well as development of potential legislation that would address direct retail endorsement sales only.

For these reasons, I have vetoed section 6 of Substitute House Bill No. 1127.

With the exception of section 6, Substitute House Bill No. 1127 is approved."

CHAPTER 388

[House Bill 1205]

RETIREMENT—FISH AND WILDLIFE LAW ENFORCEMENT OFFICERS

AN ACT Relating to department of fish and wildlife law enforcement officers' membership in the law enforcement officers' and fire fighters' retirement system plan 2 for periods of future service; amending RCW 41.26.030 and 77.15.075; and adding a new section to chapter 41.40 RCW.

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

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

(1) An employee who was a member of the public employees' retirement system plan 2 or plan 3 on or before January 1, 2003, and on the effective date of this act is employed by the department of fish and wildlife as a law enforcement officer as defined in RCW 41.26.030, shall become a member of the law enforcement officers' and fire fighters' retirement system plan 2. All officers will be dual members as provided in chapter 41.54 RCW, and public employees' retirement system service credit may not be transferred to the law enforcement officers' and fire fighters' retirement system plan 2.

(2) An employee who was a member of the public employees' retirement system plan 1 on or before January 1, 2003, and on or after the effective date of this act is employed by the department of fish and wildlife as a law enforcement officer as defined in RCW 41.26.030, shall remain a member of the public employees' retirement system plan 1.

Sec. 2. RCW 41.26.030 and 2002 c 128 s 3 are each amended to read as follows:

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

(1) "Retirement system" means the "Washington law enforcement officers' and fire fighters' retirement system" provided herein.

(2)(a) "Employer" for plan 1 members, means the legislative authority of any city, town, county, or district or the elected officials of any municipal corporation that employs any law enforcement officer and/or fire fighter, any authorized association of such municipalities, and, except for the purposes of RCW 41.26.150, any labor guild, association, or organization, which represents the fire fighters or law enforcement officers of at least seven cities of over 20,000 population and the membership of each local lodge or division of which is composed of at least sixty percent law enforcement officers or fire fighters as defined in this chapter.

(b) "Employer" for plan 2 members, means the following entities to the extent that the entity employs any law enforcement officer and/or fire fighter:

(i) The legislative authority of any city, town, county, or district;

(ii) The elected officials of any municipal corporation;

(iii) The governing body of any other general authority law enforcement agency; or

(iv) A four-year institution of higher education having a fully operational fire department as of January 1, 1996.

(3) "Law enforcement officer" beginning January 1, 1994, means any person who is commissioned and employed by an employer on a full time, fully compensated basis to enforce the criminal laws of the state of Washington generally, with the following qualifications:

(a) No person who is serving in a position that is basically clerical or secretarial in nature, and who is not commissioned shall be considered a law enforcement officer;

(b) Only those deputy sheriffs, including those serving under a different title pursuant to county charter, who have successfully completed a civil service examination for deputy sheriff or the equivalent position, where a different title is used, and those persons serving in unclassified positions authorized by RCW 41.14.070 except a private secretary will be considered law enforcement officers;

(c) Only such full time commissioned law enforcement personnel as have been appointed to offices, positions, or ranks in the police department which have been specifically created or otherwise expressly provided for and designated by city charter provision or by ordinance enacted by the legislative body of the city shall be considered city police officers;

(d) The term "law enforcement officer" also includes the executive secretary of a labor guild, association or organization (which is an employer under RCW 41.26.030(2)) if that individual has five years previous membership in the retirement system established in chapter 41.20 RCW. The provisions of this subsection (3)(d) shall not apply to plan 2 members; and

(e) The term "law enforcement officer" also includes a person employed on or after January 1, 1993, as a public safety officer or director of public safety, so long as the job duties substantially involve only either police or fire duties, or both, and no other duties in a city or town with a population of less than ten thousand. The provisions of this subsection (3)(e) shall not apply to any public safety officer or director of public safety who is receiving a retirement allowance under this chapter as of May 12, 1993.

(4) "Fire fighter" means:

(a) Any person who is serving on a full time, fully compensated basis as a member of a fire department of an employer and who is serving in a position which requires passing a civil service examination for fire fighter, and who is actively employed as such;

(b) Anyone who is actively employed as a full time fire fighter where the fire department does not have a civil service examination;

(c) Supervisory fire fighter personnel;

(d) Any full time executive secretary of an association of fire protection districts authorized under RCW 52.12.031. The provisions of this subsection (4)(d) shall not apply to plan 2 members;

(e) The executive secretary of a labor guild, association or organization (which is an employer under RCW 41.26.030(2) as now or hereafter amended), if such individual has five years previous membership in a retirement system established in chapter 41.16 or 41.18 RCW. The provisions of this subsection (4)(e) shall not apply to plan 2 members;

(f) Any person who is serving on a full time, fully compensated basis for an employer, as a fire dispatcher, in a department in which, on March 1, 1970, a dispatcher was required to have passed a civil service examination for fire fighter; and

(g) Any person who on March 1, 1970, was employed on a full time, fully compensated basis by an employer, and who on May 21, 1971, was making retirement contributions under the provisions of chapter 41.16 or 41.18 RCW.

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

(6) "Surviving spouse" means the surviving widow or widower of a member. "Surviving spouse" shall not include the divorced spouse of a member except as provided in RCW 41.26.162.

(7)(a) "Child" or "children" means an unmarried person who is under the age of eighteen or mentally or physically handicapped as determined by the department, except a handicapped person in the full time care of a state institution, who is:

- (i) A natural born child;
- (ii) A stepchild where that relationship was in existence prior to the date benefits are payable under this chapter;
- (iii) A posthumous child;
- (iv) A child legally adopted or made a legal ward of a member prior to the date benefits are payable under this chapter; or
- (v) An illegitimate child legitimized prior to the date any benefits are payable under this chapter.

(b) A person shall also be deemed to be a child up to and including the age of twenty years and eleven months while attending any high school, college, or vocational or other educational institution accredited, licensed, or approved by the state, in which it is located, including the summer vacation months and all other normal and regular vacation periods at the particular educational institution after which the child returns to school.

(8) "Member" means any fire fighter, law enforcement officer, or other person as would apply under subsections (3) or (4) of this section whose membership is transferred to the Washington law enforcement officers' and fire fighters' retirement system on or after March 1, 1970, and every law enforcement officer and fire fighter who is employed in that capacity on or after such date.

(9) "Retirement fund" means the "Washington law enforcement officers' and fire fighters' retirement system fund" as provided for herein.

(10) "Employee" means any law enforcement officer or fire fighter as defined in subsections (3) and (4) of this section.

(11)(a) "Beneficiary" for plan 1 members, means any person in receipt of a retirement allowance, disability allowance, death benefit, or any other benefit described herein.

(b) "Beneficiary" for plan 2 members, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(12)(a) "Final average salary" for plan 1 members, means (i) for a member holding the same position or rank for a minimum of twelve months preceding the date of retirement, the basic salary attached to such same position or rank at time of retirement; (ii) for any other member, including a civil service member who has not served a minimum of twelve months in the same position or rank preceding the date of retirement, the average of the greatest basic salaries payable to such member during any consecutive twenty-four month period within such member's last ten years of service for which service credit is allowed, computed by dividing the total basic salaries payable to such member during the selected twenty-four month period by twenty-four; (iii) in the case of disability of any member, the basic salary payable to such member at the time of disability retirement; (iv) in the case of a member who hereafter vests pursuant to RCW 41.26.090, the basic salary payable to such member at the time of vesting.

(b) "Final average salary" for plan 2 members, means the monthly average of the member's basic salary for the highest consecutive sixty service credit months of service prior to such member's retirement, termination, or death. Periods constituting authorized unpaid leaves of absence may not be used in the calculation of final average salary.

(13)(a) "Basic salary" for plan 1 members, means the basic monthly rate of salary or wages, including longevity pay but not including overtime earnings or special salary or wages, upon which pension or retirement benefits will be computed and upon which employer contributions and salary deductions will be based.

(b) "Basic salary" for plan 2 members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States Internal Revenue Code, but shall exclude lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay. In any year in which a member serves in the legislature the member shall have the option of having such member's basic salary be the greater of:

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

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

(14)(a) "Service" for plan 1 members, means all periods of employment for an employer as a fire fighter or law enforcement officer, for which compensation is paid, together with periods of suspension not exceeding thirty days in duration. For the purposes of this chapter service shall also include service in the armed forces of the United States as provided in RCW 41.26.190. Credit shall be allowed for all service credit months of service rendered by a member from and after the member's initial commencement of employment as a fire fighter or law enforcement officer, during which the member worked for seventy or more hours, or was on disability leave or disability retirement. Only service credit months of service shall be counted in the computation of any retirement allowance or other benefit provided for in this chapter.

(i) For members retiring after May 21, 1971 who were employed under the coverage of a prior pension act before March 1, 1970, "service" shall also include (A) such military service not exceeding five years as was creditable to the member as of March 1, 1970, under the member's particular prior pension act, and (B) such other periods of service as were then creditable to a particular member under the provisions of RCW 41.18.165, 41.20.160 or 41.20.170. However, in no event shall credit be allowed for any service rendered prior to March 1, 1970, where the member at the time of rendition of such service was employed in a position covered by a prior pension act, unless such service, at the time credit is claimed therefor, is also creditable under the provisions of such prior act.

(ii) A member who is employed by two employers at the same time shall only be credited with service to one such employer for any month during which the member rendered such dual service.

(b) "Service" for plan 2 members, means periods of employment by a member for one or more employers for which basic salary is earned for ninety or more hours per calendar month which shall constitute a service credit month.

Periods of employment by a member for one or more employers for which basic salary is earned for at least seventy hours but less than ninety hours per calendar month shall constitute one-half service credit month. Periods of employment by a member for one or more employers for which basic salary is earned for less than seventy hours shall constitute a one-quarter service credit month.

Members of the retirement system who are elected or appointed to a state elective position may elect to continue to be members of this retirement system.

Service credit years of service shall be determined by dividing the total number of service credit months of service by twelve. Any fraction of a service credit year of service as so determined shall be taken into account in the computation of such retirement allowance or benefits.

If a member receives basic salary from two or more employers during any calendar month, the individual shall receive one service credit month's service credit during any calendar month in which multiple service for ninety or more hours is rendered; or one-half service credit month's service credit during any calendar month in which multiple service for at least seventy hours but less than ninety hours is rendered; or one-quarter service credit month during any calendar month in which multiple service for less than seventy hours is rendered.

(15) "Accumulated contributions" means the employee's contributions made by a member, including any amount paid under RCW 41.50.165(2), plus accrued interest credited thereon.

(16) "Actuarial reserve" means a method of financing a pension or retirement plan wherein reserves are accumulated as the liabilities for benefit payments are incurred in order that sufficient funds will be available on the date of retirement of each member to pay the member's future benefits during the period of retirement.

(17) "Actuarial valuation" means a mathematical determination of the financial condition of a retirement plan. It includes the computation of the present monetary value of benefits payable to present members, and the present monetary value of future employer and employee contributions, giving effect to mortality among active and retired members and also to the rates of disability, retirement, withdrawal from service, salary and interest earned on investments.

(18) "Disability board" for plan 1 members means either the county disability board or the city disability board established in RCW 41.26.110.

(19) "Disability leave" means the period of six months or any portion thereof during which a member is on leave at an allowance equal to the member's full salary prior to the commencement of disability retirement. The definition contained in this subsection shall apply only to plan 1 members.

(20) "Disability retirement" for plan 1 members, means the period following termination of a member's disability leave, during which the member is in receipt of a disability retirement allowance.

(21) "Position" means the employment held at any particular time, which may or may not be the same as civil service rank.

(22) "Medical services" for plan 1 members, shall include the following as minimum services to be provided. Reasonable charges for these services shall be paid in accordance with RCW 41.26.150.

(a) Hospital expenses: These are the charges made by a hospital, in its own behalf, for

(i) Board and room not to exceed semiprivate room rate unless private room is required by the attending physician due to the condition of the patient.

(ii) Necessary hospital services, other than board and room, furnished by the hospital.

(b) Other medical expenses: The following charges are considered "other medical expenses", provided that they have not been considered as "hospital expenses".

(i) The fees of the following:

(A) A physician or surgeon licensed under the provisions of chapter 18.71 RCW;

(B) An osteopathic physician and surgeon licensed under the provisions of chapter 18.57 RCW;

(C) A chiropractor licensed under the provisions of chapter 18.25 RCW.

(ii) The charges of a registered graduate nurse other than a nurse who ordinarily resides in the member's home, or is a member of the family of either the member or the member's spouse.

(iii) The charges for the following medical services and supplies:

(A) Drugs and medicines upon a physician's prescription;

(B) Diagnostic x-ray and laboratory examinations;

(C) X-ray, radium, and radioactive isotopes therapy;

(D) Anesthesia and oxygen;

(E) Rental of iron lung and other durable medical and surgical equipment;

(F) Artificial limbs and eyes, and casts, splints, and trusses;

(G) Professional ambulance service when used to transport the member to or from a hospital when injured by an accident or stricken by a disease;

(H) Dental charges incurred by a member who sustains an accidental injury to his or her teeth and who commences treatment by a legally licensed dentist within ninety days after the accident;

(I) Nursing home confinement or hospital extended care facility;

(J) Physical therapy by a registered physical therapist;

(K) Blood transfusions, including the cost of blood and blood plasma not replaced by voluntary donors;

(L) An optometrist licensed under the provisions of chapter 18.53 RCW.

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

(24) "Retiree" for persons who establish membership in the retirement system on or after October 1, 1977, means any member in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by such member.

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

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

(27) "State elective position" means any position held by any person elected or appointed to statewide office or elected or appointed as a member of the legislature.

(28) "Plan 1" means the law enforcement officers' and fire fighters' retirement system, plan 1 providing the benefits and funding provisions covering persons who first became members of the system prior to October 1, 1977.

(29) "Plan 2" means the law enforcement officers' and fire fighters' retirement system, plan 2 providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977.

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

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

(32) "General authority law enforcement agency" means any agency, department, or division of a municipal corporation, political subdivision, or other unit of local government of this state, and any agency, department, or division of state government, having as its primary function the detection and apprehension of persons committing infractions or violating the traffic or criminal laws in general, but not including the Washington state patrol (~~or the department of fish and wildlife~~). Such an agency, department, or division is distinguished from a limited authority law enforcement agency having as one of its functions the apprehension or detection of persons committing infractions or violating the traffic or criminal laws relating to limited subject areas, including but not limited to, the state departments of natural resources and social and health services, the state gambling commission, the state lottery commission, the state parks and recreation commission, the state utilities and transportation commission, the state liquor control board, and the state department of corrections.

Sec. 3. RCW 77.15.075 and 2002 c 128 s 4 are each amended to read as follows:

(1) Fish and wildlife officers and ex officio fish and wildlife officers shall enforce this title, rules of the department, and other statutes as prescribed by the legislature. Fish and wildlife officers who are not ex officio officers shall have and exercise, throughout the state, such police powers and duties as are vested in sheriffs and peace officers generally. An applicant for a fish and wildlife officer position must be a citizen of the United States of America who can read and write the English language. All fish and wildlife officers employed after June 13, 2002, must successfully complete the basic law enforcement academy course, known as the basic course, sponsored by the criminal justice training commission, or the basic law enforcement equivalency certification, known as the equivalency course, provided by the criminal justice training commission. All officers employed on June 13, 2002, must have successfully completed the basic course, the equivalency course, or the supplemental course in criminal law enforcement, known as the supplemental course, offered under chapter 155, Laws of 1985. Any officer who has not successfully completed the basic course, the equivalency course, or the supplemental course must complete the basic course or the equivalency course within fifteen months of June 13, 2002.

(2) Fish and wildlife officers are peace officers. (~~However, nothing in this section or RCW 10.93.020 confers membership to such officers in the Washington law enforcement officers' and fire fighters' retirement system under chapter 41.26 RCW.~~)

(3) Any liability or claim of liability under chapter 4.92 RCW that arises out of the exercise or alleged exercise of authority by a fish and wildlife officer rests with the department unless the fish and wildlife officer acts under the direction

and control of another agency or unless the liability is otherwise assumed under an agreement between the department and another agency.

(4) Fish and wildlife officers may serve and execute warrants and processes issued by the courts.

Passed by the House March 13, 2003.

Passed by the Senate April 10, 2003.

Approved by the Governor May 20, 2003.

Filed in Office of Secretary of State May 20, 2003.

CHAPTER 389

[Senate Bill 5893]

FISH AND WILDLIFE—AUTOMATED LICENSING

AN ACT Relating to fish and wildlife automated recreational licensing; and amending RCW 77.32.050.

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

Sec. 1. RCW 77.32.050 and 2000 c 107 s 266 are each amended to read as follows:

All recreational licenses, permits, tags, and stamps required by this title and raffle tickets authorized under chapter 77.12 RCW shall be issued under the authority of the commission. The commission shall adopt rules for the issuance of recreational licenses, permits, tags, stamps, and raffle tickets, and for the collection, payment, and handling of license fees, terms and conditions to govern dealers, and dealers' fees. A transaction fee on recreational ~~((licenses))~~ documents issued through an automated licensing system may be set by the commission and collected from licensees. The department may authorize all or part of such fee to be paid directly to a contractor providing automated licensing system services. Fees retained by dealers shall be uniform throughout the state. The department shall authorize dealers to collect and retain dealer fees of at least two dollars for purchase of a standard hunting or fishing recreational license document, except that the commission may set a lower dealer fee for issuance of tags or when a licensee buys a license that involves a stamp or display card format rather than a standard department licensing document form.

Passed by the Senate March 18, 2003.

Passed by the House April 17, 2003.

Approved by the Governor May 20, 2003.

Filed in Office of Secretary of State May 20, 2003.

CHAPTER 390

[Senate Bill 5898]

RECREATIONAL BOATING

AN ACT Relating to recreational boating; and creating a new section.

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

NEW SECTION. Sec. 1. Because of the number of recreational boating accidents, fatalities, and near misses on the waters of this state, the Washington

state legislature believes there is a need to provide for safer recreational boating practices.

The legislature therefore directs the Washington state parks and recreation commission and the boating safety advisory council to research and recommend ways to reduce boating accidents, fatalities, and near misses. The Washington state parks and recreation commission should also include in its research recognition of the need for homeland security safety precautions for boaters.

The Washington state parks and recreation commission shall investigate a variety of methods to achieve safer boating practices, including a program of mandatory safe boater education, identifying the costs associated with designing, implementing, and maintaining mandatory safe boater education, and identifying all potential sources of funds to pay for such costs and report back to the legislature by January 1, 2004.

Passed by the Senate March 16, 2003.

Passed by the House April 14, 2003.

Approved by the Governor May 20, 2003.

Filed in Office of Secretary of State May 20, 2003.

CHAPTER 391

[Engrossed Second Substitute House Bill 1418]

DRAINAGE INFRASTRUCTURE

AN ACT Relating to drainage infrastructure; amending RCW 77.55.060 and 77.55.100; adding new sections to chapter 77.55 RCW; adding new sections to chapter 77.85 RCW; creating a new section; and declaring an emergency.

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

Sec. 1. RCW 77.55.060 and 1998 c 190 s 86 are each amended to read as follows:

(1) Subject to subsection (3) of this section, a dam or other obstruction across or in a stream shall be provided with a durable and efficient fishway approved by the director. Plans and specifications shall be provided to the department prior to the director's approval. The fishway shall be maintained in an effective condition and continuously supplied with sufficient water to freely pass fish.

(2) If a person fails to construct and maintain a fishway or to remove the dam or obstruction in a manner satisfactory to the director, then within thirty days after written notice to comply has been served upon the owner, his or her agent, or the person in charge, the director may construct a fishway or remove the dam or obstruction. Expenses incurred by the department constitute the value of a lien upon the dam and upon the personal property of the person owning the dam. Notice of the lien shall be filed and recorded in the office of the county auditor of the county in which the dam or obstruction is situated. The lien may be foreclosed in an action brought in the name of the state.

If, within thirty days after notice to construct a fishway or remove a dam or obstruction, the owner, his or her agent, or the person in charge fails to do so, the dam or obstruction is a public nuisance and the director may take possession of the dam or obstruction and destroy it. No liability shall attach for the destruction.

(3) For the purposes of this section, "other obstruction" does not include tide gates, flood gates, and associated man-made agricultural drainage facilities that were originally installed as part of an agricultural drainage system on or before the effective date of this section or the repair, replacement, or improvement of such tide gates or flood gates.

Sec. 2. RCW 77.55.100 and 2002 c 368 s 2 are each amended to read as follows:

(1) In the event that any person or government agency desires to construct any form of hydraulic project or perform other work that will use, divert, obstruct, or change the natural flow or bed of any of the salt or fresh waters of the state, such person or government agency shall, before commencing construction or work thereon and to ensure the proper protection of fish life, secure the approval of the department as to the adequacy of the means proposed for the protection of fish life. This approval shall not be unreasonably withheld or unreasonably conditioned.

(2)(a) The department shall grant or deny approval of a standard permit within forty-five calendar days of the receipt of a complete application and notice of compliance with any applicable requirements of the state environmental policy act, made in the manner prescribed in this section. The permit must contain provisions allowing for minor modifications to the plans and specifications without requiring reissuance of the permit.

(b) The applicant may document receipt of application by filing in person or by registered mail. A complete application for approval shall contain general plans for the overall project, complete plans and specifications of the proposed construction or work within the mean higher high water line in salt water or within the ordinary high water line in fresh water, and complete plans and specifications for the proper protection of fish life.

(c) The forty-five day requirement shall be suspended if:

(i) After ten working days of receipt of the application, the applicant remains unavailable or unable to arrange for a timely field evaluation of the proposed project;

(ii) The site is physically inaccessible for inspection; or

(iii) The applicant requests delay. Immediately upon determination that the forty-five day period is suspended, the department shall notify the applicant in writing of the reasons for the delay.

(d) For purposes of this section, "standard permit" means a written permit issued by the department when the conditions under subsections (3) and (5)(b) of this section are not met.

(3)(a) The department may issue an expedited written permit in those instances where normal permit processing would result in significant hardship for the applicant or unacceptable damage to the environment. In cases of imminent danger, the department shall issue an expedited written permit, upon request, for work to repair existing structures, move obstructions, restore banks, protect property, or protect fish resources. Expedited permit requests require a complete written application as provided in subsection (2)(b) of this section and shall be issued within fifteen calendar days of the receipt of a complete written application. Approval of an expedited permit is valid for up to sixty days from the date of issuance.

(b) For the purposes of this subsection, "imminent danger" means a threat by weather, water flow, or other natural conditions that is likely to occur within sixty days of a request for a permit application.

(c) The department may not require the provisions of the state environmental policy act, chapter 43.21C RCW, to be met as a condition of issuing a permit under this subsection.

(d) The department or the county legislative authority may determine if an imminent danger exists. The county legislative authority shall notify the department, in writing, if it determines that an imminent danger exists.

(4) Approval of a standard permit is valid for a period of up to five years from date of issuance. The permittee must demonstrate substantial progress on construction of that portion of the project relating to the approval within two years of the date of issuance. If the department denies approval, the department shall provide the applicant, in writing, a statement of the specific reasons why and how the proposed project would adversely affect fish life. Protection of fish life shall be the only ground upon which approval may be denied or conditioned. Chapter 34.05 RCW applies to any denial of project approval, conditional approval, or requirements for project modification upon which approval may be contingent.

(5)(a) In case of an emergency arising from weather or stream flow conditions or other natural conditions, the department, through its authorized representatives, shall issue immediately, upon request, oral approval for removing any obstructions, repairing existing structures, restoring stream banks, or to protect property threatened by the stream or a change in the stream flow without the necessity of obtaining a written approval prior to commencing work. Conditions of an oral approval to protect fish life shall be established by the department and reduced to writing within thirty days and complied with as provided for in this section. Oral approval shall be granted immediately, upon request, for a stream crossing during an emergency situation.

(b) For purposes of this section and RCW 77.55.110, "emergency" means an immediate threat to life, the public, property, or of environmental degradation.

(c) The department or the county legislative authority may declare and continue an emergency when one or more of the criteria under (b) of this subsection are met. The county legislative authority shall immediately notify the department if it declares an emergency under this subsection.

(6) The department shall, at the request of a county, develop five-year maintenance approval agreements, consistent with comprehensive flood control management plans adopted under the authority of RCW 86.12.200, or other watershed plan approved by a county legislative authority, to allow for work on public and private property for bank stabilization, bridge repair, removal of sand bars and debris, channel maintenance, and other flood damage repair and reduction activity under agreed-upon conditions and times without obtaining permits for specific projects.

(7) This section shall not apply to the construction of any form of hydraulic project or other work which diverts water for agricultural irrigation or stock watering purposes authorized under or recognized as being valid by the state's water codes, or when such hydraulic project or other work is associated with streambank stabilization to protect farm and agricultural land as defined in RCW

84.34.020. These irrigation or stock watering diversion and streambank stabilization projects shall be governed by RCW 77.55.110.

A landscape management plan approved by the department and the department of natural resources under RCW 76.09.350(2), shall serve as a hydraulic project approval for the life of the plan if fish are selected as one of the public resources for coverage under such a plan.

(8) For the purposes of this section and RCW 77.55.110, "bed" means the land below the ordinary high water lines of state waters. This definition does not include irrigation ditches, canals, storm water run-off devices, or other artificial watercourses except where they exist in a natural watercourse that has been altered by man.

(9) The phrase "to construct any form of hydraulic project or perform other work" does not include the act of driving across an established ford. Driving across streams or on wetted stream beds at areas other than established fords requires approval. Work within the ordinary high water line of state waters to construct or repair a ford or crossing requires approval.

(10) The department shall not require a fishway on a tide gate, flood gate, or other associated man-made agricultural drainage facilities as a condition of a hydraulic project approval if such fishway was not originally installed as part of an agricultural drainage system existing on or before the effective date of this section.

(11) Any condition requiring a self-regulating tide gate to achieve fish passage in an existing hydraulic project approval under this section may not be enforced.

***NEW SECTION.** *Sec. 3. A new section is added to chapter 77.55 RCW to read as follows:*

Upon written request of adversely affected landowners of land designated as agricultural lands of long-term commercial significance according to chapter 36.70A RCW or the associated special districts under RCW 85.38.180, the department shall authorize the removal of the self-regulating function of any self-regulating tide gate installed because of a condition imposed by the department in an approval issued according to RCW 77.55.100 or during implementation of fish passage requirements pursuant to RCW 77.55.060. The department shall make authorizing the removal of the self-regulating function of any self-regulating tide gate a priority. The department shall pay for any tide gate removal required by this section within existing resources.

**Sec. 3 was vetoed. See message at end of chapter.*

NEW SECTION. *Sec. 4. A new section is added to chapter 77.85 RCW to read as follows:*

(1) If a limiting factors analysis has been conducted under this chapter for a specific geographic area and that analysis shows insufficient intertidal salmon habitat, the department of fish and wildlife and the county legislative authorities of the affected counties may jointly initiate a salmon intertidal habitat restoration planning process to develop a plan that addresses the intertidal habitat goals contained in the limiting factors analysis. The fish and wildlife commission and the county legislative authorities of the geographic area shall jointly appoint a task force composed of the following members:

(a) One representative of the fish and wildlife commission, appointed by the chair of the commission;

(b) Two representatives of the agricultural industry familiar with agricultural issues in the geographic area, one appointed by an organization active in the geographic area and one appointed by a statewide organization representing the industry;

(c) Two representatives of environmental interest organizations with familiarity and expertise of salmon habitat, one appointed by an organization in the geographic area and one appointed by a statewide organization representing environmental interests;

(d) One representative of a diking and drainage district, appointed by the individual districts in the geographic area or by an association of diking and drainage districts;

(e) One representative of the lead entity for salmon recovery in the geographic area, appointed by the lead entity;

(f) One representative of each county in the geographic area, appointed by the respective county legislative authorities; and

(g) One representative from the office of the governor.

(2) Representatives of the United States environmental protection agency, the United States natural resources conservation service, federal fishery agencies, as appointed by their regional director, and tribes with interests in the geographic area shall be invited and encouraged to participate as members of the task force.

(3) The task force shall elect a chair and adopt rules for conducting the business of the task force. Staff support for the task force shall be provided by the Washington state conservation commission.

(4) The task force shall:

(a) Review and analyze the limiting factors analysis for the geographic area;

(b) Initiate and oversee intertidal salmon habitat studies for enhancement of the intertidal area as provided in section 5 of this act;

(c) Review and analyze the completed assessments listed in section 5 of this act;

(d) Develop and draft an overall plan that addresses identified intertidal salmon habitat goals that has public support; and

(e) Identify appropriate demonstration projects and early implementation projects that are of high priority and should commence immediately within the geographic area.

(5) The task force may request briefings as needed on legal issues that may need to be considered when developing or implementing various plan options.

(6) Members of the task force shall be reimbursed by the conservation commission for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(7) The task force shall provide annual reports that provide an update on its activities to the fish and wildlife commission, to the involved county legislative authorities, and to the lead entity formed under this chapter.

NEW SECTION. Sec. 5. A new section is added to chapter 77.85 RCW to read as follows:

(1) In consultation with the task force, the conservation commission may contract with universities, private consultants, nonprofit groups, or other entities to assist it in developing a plan incorporating the following elements:

(a) An inventory of existing tide gates located on streams in the county. The inventory shall include location, age, type, and maintenance history of the tide

gates and other factors as determined by the task force in consultation with the county and diking and drainage districts;

(b) An assessment of the role of tide gates located on streams in the county; the role of intertidal fish habitat for various life stages of salmon; the quantity and characterization of intertidal fish habitat currently accessible to fish; the quantity and characterization of the present intertidal fish habitat created at the time the dikes and outlets were constructed; the quantity of potential intertidal fish habitat on public lands and alternatives to enhance this habitat; the effects of saltwater intrusion on agricultural land, including the effects of backfeeding of saltwater through the underground drainage system; the role of tide gates in drainage systems, including relieving excess water from saturated soil and providing reservoir functions between tides; the effect of saturated soils on production of crops; the characteristics of properly functioning intertidal fish habitat; a map of agricultural lands designated by the county as having long-term commercial significance and the effect of that designation; and the economic impacts to existing land uses for various alternatives for tide gate alteration; and

(c) A long-term plan for intertidal salmon habitat enhancement to meet the goals of salmon recovery and protection of agricultural lands. The proposal shall consider all other means to achieve salmon recovery without converting farmland. The proposal shall include methods to increase fish passage and otherwise enhance intertidal habitat on public lands pursuant to subsection (2) of this section, voluntary methods to increase fish passage on private lands, a priority list of intertidal salmon enhancement projects, and recommendations for funding of high priority projects. The task force also may propose pilot projects that will be designed to test and measure the success of various proposed strategies.

(2) In conjunction with other public landowners and the task force, the department shall develop an initial salmon intertidal habitat enhancement plan for public lands in the county. The initial plan shall include a list of public properties in the intertidal zone that could be enhanced for salmon, a description of how those properties could be altered to support salmon, a description of costs and sources of funds to enhance the property, and a strategy and schedule for prioritizing the enhancement of public lands for intertidal salmon habitat. This initial plan shall be submitted to the task force at least six months before the deadline established in subsection (3) of this section.

(3) The final intertidal salmon enhancement plan shall be completed within two years from the date the task force is formed and funding has been secured. A final plan shall be submitted by the task force to the lead entity for the geographic area established under this chapter.

NEW SECTION. Sec. 6. A new section is added to chapter 77.55 RCW to read as follows:

As used in this chapter, "tide gate" means a one-way check valve that prevents the backflow of tidal water.

NEW SECTION. Sec. 7. The process established in sections 4 and 5 of this act shall be initiated as soon as practicable in Skagit county.

NEW SECTION. Sec. 8. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 9. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House April 22, 2003.

Passed by the Senate April 14, 2003.

Approved by the Governor May 20, 2003, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 20, 2003.

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

"I am returning herewith, without my approval as to section 3, Engrossed Second Substitute House Bill No. 1418 entitled:

"AN ACT Relating to drainage infrastructure;"

This bill exempts tide gates and flood gates statewide from fish passage requirements, creates a task force to develop a plan for intertidal habitat goals, and provides for a process to inventory and assess tide gates and their role in salmon recovery.

Section 3 of the bill requires the removal of the self-regulating function of any self-regulating tide gate installed because of a condition imposed by the Department of Fish and Wildlife pursuant to RCW 77.55.100, the hydraulics code, or as a requirement of fish passage pursuant to RCW 77.55.060. This section applies to any fish passage already installed on a tide gate.

I have vetoed section 3 because it applies where fish passage is already in place. It is counterproductive to our salmon recovery strategies to eliminate existing fish passage. The better approach is to use the task force process created in the bill, to analyze the role of tide gates, and habitat behind them, for salmon recovery.

I have concerns regarding the broad scope of the fish passage exemptions provided in sections 1 and 2. However, I have decided not to veto those sections because I believe the task force process in section 4 and the assessment process in section 5 will provide a scientific basis for determining the role of tide gates in particular ecosystems. The results of this study will allow us to address those tide gates that will enhance our ability to recover salmon.

My administration has strongly supported and is committed to continuing our efforts toward salmon recovery. Habitat is critical for salmon recovery for recreational and commercial fisheries. And, salmon are essential for the tribes in our state. Just as farmers rely on the land, tribes rely on the salmon. Unfortunately, we have seen an escalation in the tension between the parties on tide gates. It is my hope that in signing this bill, some of this tension will be eased so that we can begin to work together to resolve this issue.

A key approach in our salmon recovery strategy has been to focus on working with those impacted by our decisions. This was the approach used with Forest and Fish, the plan for the protection of salmon habitat in the forested environment. Forest and Fish addresses the impacts of protection decisions on forestland owners. However, this process also incorporates an aggressive adaptive management program that assesses the progress of our recovery strategies and adjusts them as we learn more.

Now, as we address the interaction between salmon recovery and agriculture, I believe that the same type of approach should be used. Recovery strategies that will necessitate using agricultural land should be based on an assessment and evaluation of the habitat needs, and on opportunities to recover the species with a minimal impact on private lands. Should it be necessary to include private lands, then the landowner should have a clear understanding of the plan for recovery, the role his or her land will play in the plan, and incentives for participation in the plan. This is the approach taken in sections 4 and 5 of this bill, which I support.

Although this bill is statewide in scope and effect, the focus of discussions in the Legislature have been on the Skagit River estuary. It is my hope that the forum created in this bill will lead to positive dialogue between the parties, and most importantly, will lead to a salmon recovery strategy for the

Skagit River estuary. The system of dikes and drainage in the estuary is important for farmers, but there are also opportunities for restoration of lost estuarine habitat.

For these reasons, I have vetoed section 3 of Engrossed Second Substitute House Bill No. 1418.

With the exception of section 3, Engrossed Second Substitute House Bill No. 1418 is approved."

CHAPTER 392

[House Bill 1420]

DRAINAGE FACILITIES

AN ACT Relating to drainage facilities; and amending RCW 85.38.180.

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

Sec. 1. RCW 85.38.180 and 1991 c 349 s 17 are each amended to read as follows:

A special district may:

(1) Engage in flood control activities, and investigate, plan, construct, acquire, repair, maintain, and operate improvements, works, projects, and facilities necessary to prevent inundation or flooding from rivers, streams, tidal waters or other waters. Such facilities include dikes, levees, dams, banks, revetments, channels, canals, drainage ditches, tide gates, flood gates, and other works, appliances, machinery, and equipment.

(2) Engage in drainage control, storm water control, and surface water control activities, and investigate, plan, construct, acquire, repair, maintain, and operate improvements, works, projects, and facilities necessary to control and treat storm water, surface water, and flood water. Such facilities include drains, flood gates, drainage ditches, tide gates, ditches, canals, nonsanitary sewers, pumps, and other works, appliances, machinery, and equipment.

(3) Engage in lake or river restoration, aquatic plant control, and water quality enhancement activities.

(4) Take actions necessary to protect life and property from inundation or flow of flood waters, storm waters, or surface waters.

(5) Acquire, purchase, condemn by power of eminent domain pursuant to chapters 8.08 and 8.25 RCW, or lease, in its own name, necessary property, property rights, facilities, and equipment.

(6) Sell or exchange surplus property, property rights, facilities, and equipment.

(7) Accept funds and property by loan, grant, gift, or otherwise from the United States, the state of Washington, or any other public or private source.

(8) Hire staff, employees, or services, or use voluntary labor.

(9) Sue and be sued.

(10) Cooperate with or join the United States, the state of Washington, or any other public or private entity or person for district purposes.

(11) Enter into contracts.

(12) Exercise any of the usual powers of a corporation for public purposes.

Passed by the House March 11, 2003.

Passed by the Senate April 10, 2003.

Approved by the Governor May 20, 2003.

Filed in Office of Secretary of State May 20, 2003.

CHAPTER 393

[Engrossed Substitute Senate Bill 5776]

PERMIT DECISIONS—REVIEW

AN ACT Relating to review of permit decisions by state agencies and local governments for economic development projects; amending RCW 34.05.518, 36.70C.030, 43.21B.005, 43.21B.110, 76.09.220, 77.55.170, and 90.58.180; adding a new chapter to Title 43 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 purpose of this chapter is to reform the process of appeal and review of final permit decisions made by state agencies and local governments for qualifying economic development projects, by establishing uniform, expedited, and coordinated appeal procedures and uniform criteria for reviewing such decisions, in order to provide consistent, predictable, and timely review. The appeal process authorized in this chapter is intended to be the exclusive process for review of final decisions made by state agencies and local governments on permit applications for qualifying economic development projects, superseding other existing administrative board and judicial appeal procedures.

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

(1) "Board" means the environmental and land use hearings board established in this chapter.

(2) "Final decision" means the highest and last decision available within the permit agency with respect to a permit application to the agency, including but not limited to decisions resulting from internal appeals available within the agency for the permit decision.

(3) "Participating permit agency" means any permit agency in which the applicant for a qualifying project has filed an application for an environmental or land use permit that is required for the qualifying project.

(4) "Permit" means any license, permit, certificate, certification, approval, compliance schedule, or other similar document pertaining to any regulatory or management program related to the protection, conservation, use of, or interference with the land, air, or water in the state. This document must be required to be obtained from a state agency or local government, including but not limited to counties, cities, and air agencies, prior to constructing or operating a qualifying project. Local government permits include, but are not limited to, subdivisions, binding site plans, planned unit developments, shoreline permits or other approvals under RCW 90.58.140, master plan approvals, site plan approvals, permits or approvals required by critical area ordinances, conditional use permits, variances, and site-specific rezones authorized by a comprehensive plan or subarea plan or other equivalent documents however titled or denominated. Local government permits excluded under this definition include the adoption or amendment of a comprehensive plan, subarea plan, legislative actions on development regulations, certifications by local health districts of water and sewer availability, and building, grading, flood hazard, utility connection, and other nondiscretionary construction permits.

(5) "Permit agency" means any state agency or local government, including but not limited to air agencies, authorized by law to issue permits.

(6) "Qualifying project" means an economic development project that is (a) located within a county that in its entirety qualifies as a distressed area as defined in RCW 43.168.020(3) and a rural natural resources impact area as defined in RCW 43.160.020, (b) designed to provide at least thirty full-time year-round jobs, and (c) designated as a qualifying project by the office of permit assistance established under chapter 43.42 RCW if a request for a determination of such designation is made to the office by the project applicant as provided under this chapter.

NEW SECTION. Sec. 3. The appeal process authorized in this chapter shall, notwithstanding any other provisions of this code, be the exclusive process for review of the decisions made by participating permit agencies on permit applications for a qualifying project. This chapter shall not apply to applications for certification by the energy facility site evaluation council pursuant to chapter 80.50 RCW. The superior court civil rules and the rules of appellate procedure shall govern procedural matters for the judicial appeal process under this chapter to the extent that the rules are consistent with this chapter.

NEW SECTION. Sec. 4. (1) Any applicant for a project that meets the criteria set forth in section 2(6) (a) and (b) of this act may use the process of appeal and review of this chapter by filing with the office of permit assistance a request for a determination of designation as a qualifying project as required in section 2(6)(c) of this act. Such request shall be filed with the office no later than thirty days after the filing with a permit agency of the first application for a permit relating to the subject project that is filed after the effective date of this act. No requests may be filed with the office of permit assistance after December 31, 2010. The request shall include a list of permits that the project applicant reasonably believes will be required for the subject project.

(2) The office of permit assistance shall: (a) Respond to such request within thirty days after the filing of the request; and (b) if the office determines to designate the project as a qualifying project under section 2(6)(c) of this act, contemporaneously provide a copy of the designation response to all permit agencies responsible for the project permits listed in the request. The office of permit assistance shall provide notice of any project designation to the code reviser for publication in the state register and to any persons that have filed with the office of permit assistance a general request for such notice. Nothing in this section creates an independent cause of action or affects any existing cause of action.

(3) All final decisions of a permit agency notified under subsection (2) of this section shall include the following sentence: Any appeal of this decision shall be in accordance with the provisions of this chapter.

NEW SECTION. Sec. 5. (1) An environmental and land use hearings board is hereby established within the environmental hearings office created under RCW 43.21B.005. The environmental and land use hearings board shall be composed of six members, as provided in RCW 90.58.170. The chairperson of the pollution control hearings board shall be the chairperson of the environmental and land use hearings board. The members of the environmental and land use hearings board shall receive the compensation, travel, and subsistence expenses as provided in RCW 43.03.050 and 43.03.060.

(2) All proceedings before the board or any of its members shall be conducted in accordance with such rules of practice and procedure as the board may adopt. In all such proceedings, the board shall have all powers relating to the administration of oaths, issuance of subpoenas, and taking of depositions as set forth in RCW 34.05.446. The board shall publish any such rules and arrange for the reasonable distribution thereof. Failure to adopt such rules shall not deprive the board of jurisdiction nor relieve the board of the duty to hear petitions for review filed under this chapter.

NEW SECTION. Sec. 6. (1) Proceedings for review under this chapter shall be commenced by filing a petition with the environmental and land use hearings board. The board may adopt by rule procedures for filing and service that are consistent with this chapter.

(2) Such petition is barred, and the board may not grant review, unless the petition is timely filed with the board and timely served on the following persons who shall be parties to the review of the petition:

(a) The participating permit agencies, which for purposes of the petition shall be (i) if a state agency, the director thereof, and (ii) if a local government, the jurisdiction's corporate entity which shall be served as provided in RCW 4.28.080; and

(b) Each of the following persons if the person is not the petitioner:

(i) Each person identified by name and address as applicant in the application to the participating permit agencies;

(ii) Each person identified in project application documents as an owner of the property at issue or, if none, each person identified as a taxpayer for the property at issue in the records of the county assessor.

(3) The petition is timely if it is filed and served on all parties listed in subsection (2) of this section within twenty-one days of the issuance by the permit agency of the permit for the qualifying project.

(4) For the purposes of this section, the date on which a permit decision is issued is:

(a) Three days after a written decision is mailed by the permit agency to the project applicant or, if not mailed, the date on which the permit agency provides notice that a written decision is publicly available; or

(b) If (a) of this subsection does not apply, the date the decision is entered into the public record.

(5) Service on all parties shall be by personal service or by mail. Service by mail is effective on the date of mailing. Proof of service shall be by affidavit or declaration under penalty of perjury.

NEW SECTION. Sec. 7. Standing to bring a petition under this chapter is limited to the following persons:

(1) The applicant and the owner of the property to which the permit decision is directed;

(2) Another person aggrieved or adversely affected by the permit decision, or who would be aggrieved or adversely affected by a reversal or modification of the permit decision. A person is aggrieved or adversely affected within the meaning of this section only when all of the following conditions are present:

(a) The permit decision has prejudiced or is likely to prejudice that person;

(b) That person's asserted interests are among those that the permit agency was required to consider when it made its permit decision;

(c) A decision of the board in favor of that person would substantially eliminate or redress the prejudice to that person caused or likely to be caused by the permit decision; and

(d) The petitioner has exhausted his or her administrative remedies to the extent required by law;

(3) A participating permit agency under this chapter.

NEW SECTION. Sec. 8. A petition must set forth:

(1) The name and mailing address of the petitioner;

(2) The name and mailing address of the petitioner's attorney, if any;

(3) The name and mailing address of the permit agency whose permit is at issue, if any;

(4) A duplicate copy of the permit decision;

(5) Identification of each person to be made a party under this chapter;

(6) Facts demonstrating that the petitioner has standing to seek board review under this chapter;

(7) A separate and concise statement of each error alleged to have been committed;

(8) A concise statement of facts upon which the petitioner relies to sustain the statement of error; and

(9) A request for relief, specifying the type and extent of relief requested.

NEW SECTION. Sec. 9. (1) Within seven days after receipt of service of the petition filed pursuant to section 6 of this act, the project applicant shall file with the board and serve on all parties an affidavit certifying all applications for permits that the project applicant has filed with participating permit agencies for the qualifying project, provided, however, that no permit may be included that has been issued and appealed to an administrative hearings board or to court prior to the date of service of the petition filed with the board under this chapter. The board shall request verification from the participating agencies of the permit applications certified in the project applicant's affidavit and of the expected date for final decision on the permit applications. Filing of the affidavit shall toll the schedule for hearing by the board until twenty-one days after issuance of the final permit decision on the last permit required for the qualifying project that has been certified in the project applicant's affidavit and verified by a participating agency as applied for, unless the petition filed and served by the petitioner relates to the final permit decision.

(2) Within seven days after the expiration of the appeal period for the final permit decision on the last permit required for the qualifying project, the petitioner shall note an initial hearing on jurisdictional and other preliminary matters, and, if applicable, on other pretrial matters. This initial hearing shall be set no sooner than thirty-five days and not later than fifty days after the expiration of the appeal period for the final permit decision on the last permit required for the qualifying project.

(3) If petitions for review of more than one permit issued by participating permit agencies for a qualifying project are filed with the board, the board shall contemporaneously process all such petitions in accordance with the case schedule requirements set forth in this act.

(4) The parties shall note all motions on jurisdictional and procedural issues for resolution at the initial hearing, except that a motion to allow discovery may be brought sooner.

(5) The defenses of lack of standing, untimely filing or service of the petition, lack of good faith or improper purpose in filing, and failure to join persons needed for just adjudication are waived if not raised by timely motion noted to be heard at the initial hearing, unless the board allows discovery on such issues.

(6) The petitioner shall move the board for an order at the initial hearing that sets the date on which the permit decision record or records of the applicable permit agency or agencies, if any, must be submitted, sets a briefing schedule, sets a discovery schedule if discovery is to be allowed, and schedules a hearing or hearings on the merits.

(7) The parties may waive the initial hearing by scheduling with the board a date for the hearing or hearings on the merits and filing a stipulated order that resolves the jurisdictional and procedural issues raised by the petition, including the issues identified in subsections (5) and (6) of this section.

(8) A party need not file an answer to a petition for review filed pursuant to section 6 of this act.

NEW SECTION. Sec. 10. The board shall provide expedited review of petitions filed under this chapter. Any matter reviewed on the decision record as provided in section 13(1) of this act must be set for hearing within sixty days of the date set for submitting the decision record of all participating permit agencies, absent a showing of good cause for a different date or a stipulation of the parties. Any matter reviewed de novo as provided in section 13(3) of this act must be set for hearing or trial no later than one hundred twenty days after the initial hearing date. The board shall issue a final decision and order within thirty days after the final hearing required in this section.

NEW SECTION. Sec. 11. (1) A petitioner or other party may request the board to stay or suspend an action by a participating permit agency or another party to implement the decision under review. The request must set forth a statement of grounds for the stay and the factual basis for the request.

(2) The board may grant a stay only if the board finds that: (a) The party requesting the stay is likely to prevail on the merits, (b) without the stay the party requesting it will suffer irreparable harm, (c) the grant of a stay will not substantially harm other parties to the proceedings, and (d) the request for the stay is timely in light of the circumstances of the case.

(3) The board may grant the request for a stay upon such terms and conditions, including the filing of security, as are necessary to prevent harm to other parties by the stay.

NEW SECTION. Sec. 12. (1) Within forty-five days after entry of an order to submit the decision record, where applicable, or within such a further time as the board allows or as the parties agree, each participating agency shall submit to the board a certified copy of the decision record for board review of the permit decision, except that the petitioner shall prepare at the petitioner's expense and submit a verbatim transcript of any hearings held on the matter.

(2) If the parties agree, or upon order of the board, the record shall be shortened or summarized to avoid reproduction and transcription of portions of

the record that are duplicative or not relevant to the issues to be reviewed by the board.

(3) The petitioner shall pay the participating agency the cost of preparing the record before the participating agency submits the decision record to the board. Failure by the petitioner to timely pay the participating agency relieves the participating agency of responsibility to submit the record and is grounds for dismissal of the petition.

(4) If the relief sought by the petitioner is granted in whole or in part the board shall equitably assess the cost of preparing the record among the parties. In assessing costs the board shall take into account the extent to which each party prevailed and the reasonableness of the parties' conduct in agreeing or not agreeing to shorten or summarize the record under subsection (2) of this section.

NEW SECTION. Sec. 13. (1) For all permit decisions being reviewed that were made by quasi-judicial bodies or permit agency officers who made factual determinations in support of the decisions, after the conduct of proceedings in which the parties had an opportunity consistent with due process to make records on the factual issues, board review of factual issues and the conclusions drawn from the factual issues shall be confined to the records created by the quasi-judicial bodies or permit agency officers, except as provided in subsections (2) through (4) of this section.

(2) For decisions described in subsection (1) of this section, the records may be supplemented by additional evidence only if the additional evidence relates to:

(a) Grounds for disqualification of a member of the body or of the officer that made the permit decision, when such grounds were unknown by the petitioner at the time the record was created;

(b) Matters that were improperly excluded from the record after being offered by a party to a permit decision proceeding; or

(c) Matters that were outside the jurisdiction of the body or officer that made the permit decision.

(3) For permit decisions other than those described in subsection (1) of this section, the board review of the permit decision shall be de novo on issues presented as error in the petition.

(4) The board may require or permit corrections of ministerial errors or inadvertent omissions in the preparation of the record.

(5)(a) The parties may not conduct pretrial discovery except with the prior permission of the board, which may be sought by motion, subject to any applicable rules adopted by the board, at any time after service of the petition. The board shall not grant permission unless the party requesting it makes a prima facie showing of need. The board shall strictly limit discovery to what is necessary for equitable and timely review of the issues.

(b) If the board allows the record to be supplemented, or in any de novo proceeding under subsection (3) of this section, the board shall require the parties to disclose before the hearing or trial on the merits the identity of witnesses and the specific evidence they intend to offer.

(c) If any party, or anyone acting on behalf of any party, requests records under chapter 42.17 RCW relating to the matters at issue, a copy of the request shall simultaneously be given to all other parties, and the board shall take such

request into account in fashioning an equitable discovery order under this section.

NEW SECTION. Sec. 14. (1) The board shall review the decision record and all such evidence as is permitted to supplement the record for review restricted to the decision record or is required for de novo review under section 13 of this act. The board may grant relief only if the party seeking relief has carried the burden of establishing that one of the standards set forth in (a) through (f) of this subsection has been met. The standards are:

(a) The body or officer that made the permit decision engaged in unlawful procedure or failed to follow a prescribed process, unless the error was harmless;

(b) The permit decision is an erroneous interpretation of the law, after allowing for such deference as is due the construction of a law by an agency with expertise;

(c) The permit decision is not supported by evidence that is substantial when viewed in light of the whole record before the board;

(d) The permit decision is a clearly erroneous application of the law to the facts;

(e) The permit decision is outside the authority or jurisdiction of the body or officer making the decision; or

(f) The permit decision violates the constitutional rights of the party seeking relief.

(2) The board may affirm or reverse each and every permit decision under review or remand the decision for modification or further proceedings involving the permit agencies.

NEW SECTION. Sec. 15. (1) In order to obtain judicial review of a final decision of the environmental and land use hearings board, a party to the board case as consolidated shall timely file a petition for judicial review in the superior court for Thurston county and timely serve the board and all parties to the proceedings before the board by personal service or by mail. Such petition is timely filed and served only if it is filed and served on all parties within thirty days after the filing of the final decision and order of the board. Service by mail shall be deemed effective on the date of deposit with the United States postal service. Any party may apply for direct review by the court of appeals. An application for direct review must be filed with the superior court within ten days after the filing of the petition for judicial review. In considering an application for direct review under this chapter, it shall be presumed that: (a) The qualifying project presents fundamental and urgent issues affecting the public interest which require a prompt determination, and (b) delay in obtaining a final and prompt determination of such issues would be detrimental to a party and the public interest.

(2) The presumption set forth in subsection (1) of this section shall require that the superior court certify the direct review not less than ten days, and not more than fifteen days, after the filing of the application therefore, unless, upon motion of a party with supporting excerpts from the record within ten days after the filing of such application, the superior court finds that: (a) The project is not a qualifying project, or (b) the project will not in fact provide new employment within the county in which the project is located. The court may make such findings upon a showing that said record contains clear, cogent, and convincing

evidence to support such findings, which evidence has been testified to by at least one witness competent to testify on employment matters.

(3) A motion as set forth in subsection (2) of this section shall be heard within fourteen days after the filing of the motion and shall be confined to certified excerpts from the record, which any party may produce. It shall not be necessary to certify the entire record to the court for the purpose of hearing such motion.

(4) The court of appeals shall accept direct review of a case unless it finds that the superior court's certification under the standards contained in this section was clearly erroneous. Review by the court of appeals shall be restricted to the decision record of the permit agency and the board proceedings. All certified appeals shall be provided priority processing by the court of appeals.

Sec. 16. RCW 34.05.518 and 1995 c 382 s 5 are each amended to read as follows:

(1) The final decision of an administrative agency in an adjudicative proceeding under this chapter may, except as otherwise provided in chapter 43.-- RCW (sections 1 through 15 of this act), be directly reviewed by the court of appeals either (a) upon certification by the superior court pursuant to this section or (b) if the final decision is from an environmental board as defined in subsection (3) of this section, upon acceptance by the court of appeals after a certificate of appealability has been filed by the environmental board that rendered the final decision.

(2) For direct review upon certification by the superior court, an application for direct review must be filed with the superior court within thirty days of the filing of the petition for review in superior court. The superior court may certify a case for direct review only if the judicial review is limited to the record of the agency proceeding and the court finds that:

(a) Fundamental and urgent issues affecting the future administrative process or the public interest are involved which require a prompt determination;

(b) Delay in obtaining a final and prompt determination of such issues would be detrimental to any party or the public interest;

(c) An appeal to the court of appeals would be likely regardless of the determination in superior court; and

(d) The appellate court's determination in the proceeding would have significant precedential value.

Procedures for certification shall be established by court rule.

(3)(a) For the purposes of direct review of final decisions of environmental boards, environmental boards include those boards identified in RCW 43.21B.005 and growth management hearings boards as identified in RCW 36.70A.250.

(b) An environmental board may issue a certificate of appealability if it finds that delay in obtaining a final and prompt determination of the issues would be detrimental to any party or the public interest and either:

(i) Fundamental and urgent statewide or regional issues are raised; or

(ii) The proceeding is likely to have significant precedential value.

(4) The environmental board shall state in the certificate of appealability which criteria it applied, explain how that criteria was met, and file with the certificate a copy of the final decision.

(5) For an appellate court to accept direct review of a final decision of an environmental board, it shall consider the same criteria outlined in subsection (3) of this section, except as otherwise provided in chapter 43.-- RCW (sections 1 through 15 of this act).

(6) The procedures for direct review of final decisions of environmental boards include:

(a) Within thirty days after filing the petition for review with the superior court, a party may file an application for direct review with the superior court and serve the appropriate environmental board and all parties of record. The application shall request the environmental board to file a certificate of appealability.

(b) If an issue on review is the jurisdiction of the environmental board, the board may file an application for direct review on that issue.

(c) The environmental board shall have thirty days to grant or deny the request for a certificate of appealability and its decision shall be filed with the superior court and served on all parties of record.

(d) If a certificate of appealability is issued, the parties shall have fifteen days from the date of service to file a notice of discretionary review in the superior court, and the notice shall include a copy of the certificate of appealability and a copy of the final decision.

(e) If the appellate court accepts review, the certificate of appealability shall be transmitted to the court of appeals as part of the certified record.

(f) If a certificate of appealability is denied, review shall be by the superior court. The superior court's decision may be appealed to the court of appeals.

Sec. 17. RCW 36.70C.030 and 1995 c 347 s 704 are each amended to read as follows:

(1) This chapter replaces the writ of certiorari for appeal of land use decisions and shall be the exclusive means of judicial review of land use decisions, except that this chapter does not apply to:

(a) Judicial review of:

(i) Land use decisions made by bodies that are not part of a local jurisdiction;

(ii) Land use decisions of a local jurisdiction that are subject to review by a quasijudicial body created by state law, such as the shorelines hearings board, the environmental and land use hearings board, or the growth management hearings board;

(b) Judicial review of applications for a writ of mandamus or prohibition; or

(c) Claims provided by any law for monetary damages or compensation. If one or more claims for damages or compensation are set forth in the same complaint with a land use petition brought under this chapter, the claims are not subject to the procedures and standards, including deadlines, provided in this chapter for review of the petition. The judge who hears the land use petition may, if appropriate, preside at a trial for damages or compensation.

(2) The superior court civil rules govern procedural matters under this chapter to the extent that the rules are consistent with this chapter.

Sec. 18. RCW 43.21B.005 and 1999 c 125 s 1 are each amended to read as follows:

(1) 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, the environmental and land use hearings board created in chapter 43.— RCW (sections 1 through 15 of this act), and the hydraulic appeals board created in RCW ~~((75.20.130))~~ 77.55.170. 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.

(2) The chief executive officer of the environmental hearings office may appoint 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.

(3) The administrative appeals judges appointed under subsection (2) of this section are subject to discipline and termination, for cause, by the chief executive officer. Upon written request by the person so disciplined or terminated, the chief executive officer shall state the reasons for such action in writing. The person affected has a right of review by the superior court of Thurston county on petition for reinstatement or other remedy filed within thirty days of receipt of such written reasons.

(4) The chief executive officer may appoint, discharge, and fix the compensation of such administrative or clerical staff as may be necessary.

(5) The chief executive officer may also contract for required services.

Sec. 19. RCW 43.21B.110 and 2001 c 220 s 2 are each amended to read as follows:

(1) The hearings board shall only have jurisdiction to hear and decide appeals from the following decisions of the department, the director, local conservation districts, and the air pollution control boards or authorities as established pursuant to chapter 70.94 RCW, or local health departments:

(a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431, 70.105.080, 70.107.050, 88.46.090, 90.03.600, 90.48.144, 90.56.310, and 90.56.330.

(b) Orders issued pursuant to RCW 18.104.043, 18.104.060, 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070, 90.14.130, 90.48.120, and 90.56.330.

(c) Except as provided in RCW 90.03.210(2), the issuance, modification, or termination of any permit, certificate, or license by the department or any air authority in the exercise of its jurisdiction, including the issuance or termination of a waste disposal permit, the denial of an application for a waste disposal permit, the modification of the conditions or the terms of a waste disposal permit, or a decision to approve or deny an application for a solid waste permit exemption under RCW 70.95.300.

(d) Decisions of local health departments regarding the grant or denial of solid waste permits pursuant to chapter 70.95 RCW.

(e) Decisions of local health departments regarding the issuance and enforcement of permits to use or dispose of biosolids under RCW 70.95J.080.

(f) Decisions of the department regarding waste-derived fertilizer or micronutrient fertilizer under RCW 15.54.820, and decisions of the department regarding waste-derived soil amendments under RCW 70.95.205.

(g) Decisions of local conservation districts related to the denial of approval or denial of certification of a dairy nutrient management plan; conditions contained in a plan; application of any dairy nutrient management practices, standards, methods, and technologies to a particular dairy farm; and failure to adhere to the plan review and approval timelines in RCW 90.64.026.

(h) Any other decision by the department or an air authority which pursuant to law must be decided as an adjudicative proceeding under chapter 34.05 RCW.

(2) The following hearings shall not be conducted by the hearings board:

(a) Hearings required by law to be conducted by the shorelines hearings board pursuant to chapter 90.58 RCW.

(b) Hearings conducted by the department pursuant to RCW 70.94.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

(c) Proceedings conducted by the department, or the department's designee, under RCW 90.03.160 through 90.03.210 or 90.44.220.

(d) Hearings conducted by the department to adopt, modify, or repeal rules.

(e) Appeals of decisions by the department as provided in chapter 43.-- RCW (sections 1 through 15 of this act).

(3) Review of rules and regulations adopted by the hearings board shall be subject to review in accordance with the provisions of the Administrative Procedure Act, chapter 34.05 RCW.

Sec. 20. RCW 76.09.220 and 1999 sp.s. c 4 s 902 are each amended to read as follows:

(1) The appeals board shall operate on either a part-time or a full-time basis, as determined by the governor. If it is determined that the appeals board shall operate on a full-time basis, each member shall receive an annual salary to be determined by the governor. If it is determined that the appeals board shall operate on a part-time basis, each member shall be compensated in accordance with RCW 43.03.250. The director of the environmental hearings office shall make the determination, required under RCW 43.03.250, as to what statutorily prescribed duties, in addition to attendance at a hearing or meeting of the board, shall merit compensation. This compensation shall not exceed ten thousand dollars in a fiscal year. Each member shall receive reimbursement for travel expenses incurred in the discharge of his or her duties in accordance with the provisions of RCW 43.03.050 and 43.03.060.

(2) The appeals board shall as soon as practicable after the initial appointment of the members thereof, meet and elect from among its members a chair, and shall at least biennially thereafter meet and elect or reelect a chair.

(3) The principal office of the appeals board shall be at the state capital, but it may sit or hold hearings at any other place in the state. A majority of the appeals board shall constitute a quorum for making orders or decisions, adopting rules necessary for the conduct of its powers and duties, or transacting other official business, and may act though one position on the board be vacant. One

or more members may hold hearings and take testimony to be reported for action by the board when authorized by rule or order of the board. The appeals board shall perform all the powers and duties granted to it in this chapter or as otherwise provided by law.

(4) The appeals board shall make findings of fact and prepare a written decision in each case decided by it, and such findings and decision shall be effective upon being signed by two or more members and upon being filed at the appeals board's principal office, and shall be open to public inspection at all reasonable times.

(5) The appeals board shall either publish at its expense or make arrangements with a publishing firm for the publication of those of its findings and decisions which are of general public interest, in such form as to assure reasonable distribution thereof.

(6) The appeals board shall maintain at its principal office a journal which shall contain all official actions of the appeals board, with the exception of findings and decisions, together with the vote of each member on such actions. The journal shall be available for public inspection at the principal office of the appeals board at all reasonable times.

(7) The forest practices appeals board shall have exclusive jurisdiction to hear appeals arising from an action or determination by the department, and the department of fish and wildlife, and the department of ecology with respect to management plans provided for under RCW 76.09.350.

(8)(a) Any person aggrieved by the approval or disapproval of an application to conduct a forest practice or the approval or disapproval of any landscape plan or permit or watershed analysis may, except as otherwise provided in chapter 43.-- RCW (sections 1 through 15 of this act), seek review from the appeals board by filing a request for the same within thirty days of the approval or disapproval. Concurrently with the filing of any request for review with the board as provided in this section, the requestor shall file a copy of his or her request with the department and the attorney general. The attorney general may intervene to protect the public interest and ensure that the provisions of this chapter are complied with.

(b) The review proceedings authorized in (a) of this subsection are subject to the provisions of chapter 34.05 RCW pertaining to procedures in adjudicative proceedings.

Sec. 21. RCW 77.55.170 and 2000 c 107 s 20 are each amended to read as follows:

(1) There is hereby created within the environmental hearings office under RCW 43.21B.005 the hydraulic appeals board of the state of Washington.

(2) The hydraulic appeals board shall consist of three members: The director of the department of ecology or the director's designee, the director of the department of agriculture or the director's designee, and the director or the director's designee of the department whose action is appealed under subsection (6) of this section. A decision must be agreed to by at least two members of the board to be final.

(3) The board may adopt rules necessary for the conduct of its powers and duties or for transacting other official business.

(4) The board shall make findings of fact and prepare a written decision in each case decided by it, and that finding and decision shall be effective upon

being signed by two or more board members and upon being filed at the hydraulic appeals board's principal office, and shall be open to public inspection at all reasonable times.

(5) The board has exclusive jurisdiction to hear appeals arising from the approval, denial, conditioning, or modification of a hydraulic approval issued by the department: (a) Under the authority granted in RCW 77.55.110 for the diversion of water for agricultural irrigation or stock watering purposes or when associated with streambank stabilization to protect farm and agricultural land as defined in RCW 84.34.020; or (b) under the authority granted in RCW 77.55.230 for off-site mitigation proposals.

(6)(a) Any person aggrieved by the approval, denial, conditioning, or modification of a hydraulic approval pursuant to RCW 77.55.110 may, except as otherwise provided in chapter 43.-- RCW (sections 1 through 15 of this act), seek review from the board by filing a request for the same within thirty days of notice of the approval, denial, conditioning, or modification of such approval.

(b) The review proceedings authorized in (a) of this subsection are subject to the provisions of chapter 34.05 RCW pertaining to procedures in adjudicative proceedings.

Sec. 22. RCW 90.58.180 and 1997 c 199 s 1 are each amended to read as follows:

(1) Any person aggrieved by the granting, denying, or rescinding of a permit on shorelines of the state pursuant to RCW 90.58.140 may, except as otherwise provided in chapter 43.-- RCW (sections 1 through 15 of this act), seek review from the shorelines hearings board by filing a petition for review within twenty-one days of the date of filing as defined in RCW 90.58.140(6).

Within seven days of the filing of any petition for review with the board as provided in this section pertaining to a final decision of a local government, the petitioner shall serve copies of the petition on the department, the office of the attorney general, and the local government. The department and the attorney general may intervene to protect the public interest and insure that the provisions of this chapter are complied with at any time within fifteen days from the date of the receipt by the department or the attorney general of a copy of the petition for review filed pursuant to this section. The shorelines hearings board shall schedule review proceedings on the petition for review without regard as to whether the period for the department or the attorney general to intervene has or has not expired.

(2) The department or the attorney general may obtain review of any final decision granting a permit, or granting or denying an application for a permit issued by a local government by filing a written petition with the shorelines hearings board and the appropriate local government within twenty-one days from the date the final decision was filed as provided in RCW 90.58.140(6).

(3) The review proceedings authorized in subsections (1) and (2) of this section are subject to the provisions of chapter 34.05 RCW pertaining to procedures in adjudicative proceedings. Judicial review of such proceedings of the shorelines hearings board is governed by chapter 34.05 RCW. The board shall issue its decision on the appeal authorized under subsections (1) and (2) of this section within one hundred eighty days after the date the petition is filed with the board or a petition to intervene is filed by the department or the attorney general, whichever is later. The time period may be extended by the board for a

period of thirty days upon a showing of good cause or may be waived by the parties.

(4) Any person may appeal any rules, regulations, or guidelines adopted or approved by the department within thirty days of the date of the adoption or approval. The board shall make a final decision within sixty days following the hearing held thereon.

(5) The board shall find the rule, regulation, or guideline to be valid and enter a final decision to that effect unless it determines that the rule, regulation, or guideline:

(a) Is clearly erroneous in light of the policy of this chapter; or

(b) Constitutes an implementation of this chapter in violation of constitutional or statutory provisions; or

(c) Is arbitrary and capricious; or

(d) Was developed without fully considering and evaluating all material submitted to the department during public review and comment; or

(e) Was not adopted in accordance with required procedures.

(6) If the board makes a determination under subsection (5)(a) through (e) of this section, it shall enter a final decision declaring the rule, regulation, or guideline invalid, remanding the rule, regulation, or guideline to the department with a statement of the reasons in support of the determination, and directing the department to adopt, after a thorough consultation with the affected local government and any other interested party, a new rule, regulation, or guideline consistent with the board's decision.

(7) A decision of the board on the validity of a rule, regulation, or guideline shall be subject to review in superior court, if authorized pursuant to chapter 34.05 RCW. A petition for review of the decision of the shorelines hearings board on a rule, regulation, or guideline shall be filed within thirty days after the date of final decision by the shorelines hearings board.

NEW SECTION. Sec. 23. Sections 1 through 15 of this act constitute a new chapter in Title 43 RCW.

NEW SECTION. Sec. 24. The legislature does not intend to appropriate additional funds for the implementation of this act and expects all affected state agencies to implement this act's provisions within existing appropriations.

NEW SECTION. Sec. 25. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the Senate April 27, 2003.

Passed by the House April 14, 2003.

Approved by the Governor May 20, 2003.

Filed in Office of Secretary of State May 20, 2003.

CHAPTER 394

[Engrossed Substitute House Bill 2088]

STORM WATER RATES

AN ACT Relating to storm water rates and charges; and amending RCW 35.67.020, 35.92.020, 36.89.080, 36.94.140, 57.08.005, 57.08.081, 84.33.210, and 86.15.160.

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

Sec. 1. RCW 35.67.020 and 1997 c 447 s 8 are each amended to read as follows:

(1) Every city and town may construct, condemn and purchase, acquire, add to, maintain, conduct, and operate systems of sewerage and systems and plants for refuse collection and disposal together with additions, extensions, and betterments thereto, within and without its limits(~~(, with)~~). Every city and town has full jurisdiction and authority to manage, regulate, and control them and, except as provided in subsection (3) of this section, to fix, alter, regulate, and control the rates and charges for their use.

(2) Subject to subsection (3) of this section, the rates charged under this section must be uniform for the same class of customers or service and facilities furnished. In classifying customers served or service and facilities furnished by such system of sewerage, the city or town legislative body may in its discretion consider any or all of the following factors:

~~((1))~~ (a) The difference in cost of service and facilities to the various customers;

~~((2))~~ (b) The location of the various customers within and without the city or town;

~~((3))~~ (c) The difference in cost of maintenance, operation, repair, and replacement of the various parts of the system;

~~((4))~~ (d) The different character of the service and facilities furnished various customers;

~~((5))~~ (e) The quantity and quality of the sewage delivered and the time of its delivery;

~~((6))~~ (f) The achievement of water conservation goals and the discouragement of wasteful water use practices;

~~((7))~~ (g) Capital contributions made to the system, including but not limited to, assessments;

~~((8))~~ (h) The nonprofit public benefit status, as defined in RCW 24.03.490, of the land user; and

~~((9))~~ (i) Any other matters which present a reasonable difference as a ground for distinction.

(3) The rate a city or town may charge under this section for storm or surface water sewer systems or the portion of the rate allocable to the storm or surface water sewer system of combined sanitary sewage and storm or surface water sewer systems shall be reduced by a minimum of ten percent for any new or remodeled commercial building that utilizes a permissive rainwater harvesting system. Rainwater harvesting systems shall be properly sized to utilize the available roof surface of the building. The jurisdiction shall consider rate reductions in excess of ten percent dependent upon the amount of rainwater harvested.

(4) Rates or charges for on-site inspection and maintenance services may not be imposed under this chapter on the development, construction, or reconstruction of property.

(5) A city or town may provide assistance to aid low-income persons in connection with services provided under this chapter.

(6) Under this chapter, after July 1, 1998, any requirements for pumping the septic tank of an on-site sewage system should be based, among other things, on actual measurement of accumulation of sludge and scum by a trained inspector,

trained owner's agent, or trained owner. Training must occur in a program approved by the state board of health or by a local health officer.

(7) Before adopting on-site inspection and maintenance utility services, or incorporating residences into an on-site inspection and maintenance or sewer utility under this chapter, notification must be provided, prior to the applicable public hearing, to all residences within the proposed service area that have on-site systems permitted by the local health officer. The notice must clearly state that the residence is within the proposed service area and must provide information on estimated rates or charges that may be imposed for the service.

(8) A city or town shall not provide on-site sewage system inspection, pumping services, or other maintenance or repair services under this section using city or town employees unless the on-site system is connected by a publicly owned collection system to the city or town's sewerage system, and the on-site system represents the first step in the sewage disposal process. Nothing in this section shall affect the authority of state or local health officers to carry out their responsibilities under any other applicable law.

Sec. 2. RCW 35.92.020 and 1997 c 447 s 9 are each amended to read as follows:

(1) A city or town may construct, condemn and purchase, purchase, acquire, add to, alter, maintain, and operate systems, plants, sites, or other facilities of sewerage as defined in RCW 35.67.010, or solid waste handling as defined by RCW 70.95.030(~~, and~~). A city or town shall have full authority to manage, regulate, operate, control, and, except as provided in subsection (3) of this section, to fix the price of service and facilities of those systems, plants, sites, or other facilities within and without the limits of the city or town.

(2) Subject to subsection (3) of this section, the rates charged shall be uniform for the same class of customers or service and facilities. In classifying customers served or service and facilities furnished by a system or systems of sewerage, the legislative authority of the city or town may in its discretion consider any or all of the following factors:

~~((1))~~ (a) The difference in cost of service and facilities to customers;

~~((2))~~ (h) The location of customers within and without the city or town;

~~((3))~~ (c) The difference in cost of maintenance, operation, repair, and replacement of the parts of the system;

~~((4))~~ (d) The different character of the service and facilities furnished to customers;

~~((5))~~ (e) The quantity and quality of the sewage delivered and the time of its delivery;

~~((6))~~ (f) Capital contributions made to the systems, plants, sites, or other facilities, including but not limited to, assessments;

~~((7))~~ (g) The nonprofit public benefit status, as defined in RCW 24.03.490, of the land user; and

~~((8))~~ (h) Any other factors that present a reasonable difference as a ground for distinction.

(3) The rate a city or town may charge under this section for storm or surface water sewer systems or the portion of the rate allocable to the storm or surface water sewer system of combined sanitary sewage and storm or surface water sewer systems shall be reduced by a minimum of ten percent for any new or remodeled commercial building that utilizes a permissive rainwater

harvesting system. Rainwater harvesting systems shall be properly sized to utilize the available roof surface of the building. The jurisdiction shall consider rate reductions in excess of ten percent dependent upon the amount of rainwater harvested.

(4) Rates or charges for on-site inspection and maintenance services may not be imposed under this chapter on the development, construction, or reconstruction of property.

(5) A city or town may provide assistance to aid low-income persons in connection with services provided under this chapter.

(6) Under this chapter, after July 1, 1998, any requirements for pumping the septic tank of an on-site sewage system should be based, among other things, on actual measurement of accumulation of sludge and scum by a trained inspector, trained owner's agent, or trained owner. Training must occur in a program approved by the state board of health or by a local health officer.

(7) Before adopting on-site inspection and maintenance utility services, or incorporating residences into an on-site inspection and maintenance or sewer utility under this chapter, notification must be provided, prior to the applicable public hearing, to all residences within the proposed service area that have on-site systems permitted by the local health officer. The notice must clearly state that the residence is within the proposed service area and must provide information on estimated rates or charges that may be imposed for the service.

(8) A city or town shall not provide on-site sewage system inspection, pumping services, or other maintenance or repair services under this section using city or town employees unless the on-site system is connected by a publicly owned collection system to the city or town's sewerage system, and the on-site system represents the first step in the sewage disposal process. Nothing in this section shall affect the authority of state or local health officers to carry out their responsibilities under any other applicable law.

Sec. 3. RCW 36.89.080 and 1998 c 74 s 1 are each amended to read as follows:

(1) Subject to subsections (2) and (3) of this section, any county legislative authority may provide by resolution for revenues by fixing rates and charges for the furnishing of service to those served or receiving benefits or to be served or to receive benefits from any storm water control facility or contributing to an increase of surface water runoff. In fixing rates and charges, the county legislative authority may in its discretion consider:

~~((1))~~ (a) Services furnished or to be furnished;

~~((2))~~ (b) Benefits received or to be received;

~~((3))~~ (c) The character and use of land or its water runoff characteristics;

~~((4))~~ (d) The nonprofit public benefit status, as defined in RCW 24.03.490, of the land user;

~~((5))~~ (e) Income level of persons served or provided benefits under this chapter, including senior citizens and disabled persons; or

~~((6))~~ (f) Any other matters which present a reasonable difference as a ground for distinction.

(2) The rate a county may charge under this section for storm water control facilities shall be reduced by a minimum of ten percent for any new or remodeled commercial building that utilizes a permissive rainwater harvesting system. Rainwater harvesting systems shall be properly sized to utilize the

available roof surface of the building. The jurisdiction shall consider rate reductions in excess of ten percent dependent upon the amount of rainwater harvested.

(3) Rates and charges authorized under this section may not be imposed on lands taxed as forest land under chapter 84.33 RCW or as timber land under chapter 84.34 RCW.

(4) The service charges and rates collected shall be deposited in a special fund or funds in the county treasury to be used only for the purpose of paying all or any part of the cost and expense of maintaining and operating storm water control facilities, all or any part of the cost and expense of planning, designing, establishing, acquiring, developing, constructing and improving any of such facilities, or to pay or secure the payment of all or any portion of any issue of general obligation or revenue bonds issued for such purpose.

Sec. 4. RCW 36.94.140 and 1997 c 447 s 12 are each amended to read as follows:

(1) 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)).~~ Except as provided in subsection (3) of this section, every county shall have full jurisdiction and authority to fix, alter, regulate, and control the rates and charges for the service and facilities to those to whom such service and facilities are available, and to levy charges for connection to the system.

(2) The rates for availability of service and facilities, and connection charges so charged must be uniform for the same class of customers or service and facility. In classifying customers served, service furnished or made available by such system of sewerage and/or water, or the connection charges, the county legislative authority may consider any or all of the following factors:

~~((1))~~ (a) The difference in cost of service to the various customers within or without the area;

~~((2))~~ (b) The difference in cost of maintenance, operation, repair and replacement of the various parts of the systems;

~~((3))~~ (c) The different character of the service and facilities furnished various customers;

~~((4))~~ (d) The quantity and quality of the sewage and/or water delivered and the time of its delivery;

~~((5))~~ (e) Capital contributions made to the system or systems, including, but not limited to, assessments;

~~((6))~~ (f) The cost of acquiring the system or portions of the system in making system improvements necessary for the public health and safety;

~~((7))~~ (g) The nonprofit public benefit status, as defined in RCW 24.03.490, of the land user; and

~~((8))~~ (h) Any other matters which present a reasonable difference as a ground for distinction.

(3) The rate a county may charge under this section for storm or surface water sewer systems or the portion of the rate allocable to the storm or surface water sewer system of combined sanitary sewage and storm or surface water sewer systems shall be reduced by a minimum of ten percent for any new or remodeled commercial building that utilizes a permissive rainwater harvesting system. Rainwater harvesting systems shall be properly sized to utilize the available roof surface of the building. The jurisdiction shall consider rate

reductions in excess of ten percent dependent upon the amount of rainwater harvested.

(4) A county may provide assistance to aid low-income persons in connection with services provided under this chapter.

(5) The service charges and 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. 5. RCW 57.08.005 and 1999 c 153 s 2 are each amended to read as follows:

A district shall have the following powers:

(1) To acquire by purchase or condemnation, or both, all lands, property and property rights, and all water and water rights, both within and without the district, necessary for its purposes. The right of eminent domain shall be exercised in the same manner and by the same procedure as provided for cities and towns, insofar as consistent with this title, except that all assessment or reassessment rolls to be prepared and filed by eminent domain commissioners or commissioners appointed by the court shall be prepared and filed by the district, and the duties devolving upon the city treasurer are imposed upon the county treasurer;

(2) To lease real or personal property necessary for its purposes for a term of years for which that leased property may reasonably be needed;

(3) To construct, condemn and purchase, add to, maintain, and supply waterworks to furnish the district and inhabitants thereof and any other persons, both within and without the district, with an ample supply of water for all uses and purposes public and private with full authority to regulate and control the use, content, distribution, and price thereof in such a manner as is not in conflict with general law and may construct, acquire, or own buildings and other necessary district facilities. Where a customer connected to the district's system uses the water on an intermittent or transient basis, a district may charge for providing water service to such a customer, regardless of the amount of water, if any, used by the customer. District waterworks may include facilities which result in combined water supply and electric generation, if the electricity generated thereby is a byproduct of the water supply system. That electricity may be used by the district or sold to any entity authorized by law to use or distribute electricity. Electricity is deemed a byproduct when the electrical generation is subordinate to the primary purpose of water supply. For such purposes, a district may take, condemn and purchase, acquire, and retain water from any public or navigable lake, river or watercourse, or any underflowing water, and by means of aqueducts or pipeline conduct the same throughout the district and any city or town therein and carry it along and upon public highways, roads, and streets, within and without such district. For the purpose of constructing or laying aqueducts or pipelines, dams, or waterworks or other necessary structures in storing and retaining water or for any other lawful purpose such district may occupy the beds and shores up to the high water mark of any such lake, river, or other watercourse, and may acquire by purchase or condemnation such property or property rights or privileges as may be necessary to protect its water supply from pollution. For the purposes of waterworks which include facilities for the generation of electricity as a byproduct, nothing

in this section may be construed to authorize a district to condemn electric generating, transmission, or distribution rights or facilities of entities authorized by law to distribute electricity, or to acquire such rights or facilities without the consent of the owner;

(4) To purchase and take water from any municipal corporation, private person, or entity. A district contiguous to Canada may contract with a Canadian corporation for the purchase of water and for the construction, purchase, maintenance, and supply of waterworks to furnish the district and inhabitants thereof and residents of Canada with an ample supply of water under the terms approved by the board of commissioners;

(5) To construct, condemn and purchase, add to, maintain, and operate systems of sewers for the purpose of furnishing the district, the inhabitants thereof, and persons outside the district with an adequate system of sewers for all uses and purposes, public and private, including but not limited to on-site sewage disposal facilities, approved septic tanks or approved septic tank systems, on-site sanitary sewerage systems, inspection services and maintenance services for private and public on-site systems, point and nonpoint water pollution monitoring programs that are directly related to the sewerage facilities and programs operated by a district, other facilities, programs, and systems for the collection, interception, treatment, and disposal of wastewater, and for the control of pollution from wastewater with full authority to regulate the use and operation thereof and the service rates to be charged. Under this chapter, after July 1, 1998, any requirements for pumping the septic tank of an on-site sewage system should be based, among other things, on actual measurement of accumulation of sludge and scum by a trained inspector, trained owner's agent, or trained owner. Training must occur in a program approved by the state board of health or by a local health officer. Sewage facilities may include facilities which result in combined sewage disposal or treatment and electric generation, except that the electricity generated thereby is a byproduct of the system of sewers. Such electricity may be used by the district or sold to any entity authorized by law to distribute electricity. Electricity is deemed a byproduct when the electrical generation is subordinate to the primary purpose of sewage disposal or treatment. For such purposes a district may conduct sewage throughout the district and throughout other political subdivisions within the district, and construct and lay sewer pipe along and upon public highways, roads, and streets, within and without the district, and condemn and purchase or acquire land and rights of way necessary for such sewer pipe. A district may erect sewage treatment plants within or without the district, and may acquire, by purchase or condemnation, properties or privileges necessary to be had to protect any lakes, rivers, or watercourses and also other areas of land from pollution from its sewers or its sewage treatment plant. For the purposes of sewage facilities which include facilities that result in combined sewage disposal or treatment and electric generation where the electric generation is a byproduct, nothing in this section may be construed to authorize a district to condemn electric generating, transmission, or distribution rights or facilities of entities authorized by law to distribute electricity, or to acquire such rights or facilities without the consent of the owners;

(6)(a) To construct, condemn and purchase, add to, maintain, and operate systems of drainage for the benefit and use of the district, the inhabitants thereof,

and persons outside the district with an adequate system of drainage, including but not limited to facilities and systems for the collection, interception, treatment, and disposal of storm or surface waters, and for the protection, preservation, and rehabilitation of surface and underground waters, and drainage facilities for public highways, streets, and roads, with full authority to regulate the use and operation thereof and, except as provided in (b) of this subsection, the service rates to be charged.

(b) The rate a district may charge under this section for storm or surface water sewer systems or the portion of the rate allocable to the storm or surface water sewer system of combined sanitary sewage and storm or surface water sewer systems shall be reduced by a minimum of ten percent for any new or remodeled commercial building that utilizes a permissive rainwater harvesting system. Rainwater harvesting systems shall be properly sized to utilize the available roof surface of the building. The jurisdiction shall consider rate reductions in excess of ten percent dependent upon the amount of rainwater harvested.

(c) Drainage facilities may include natural systems. Drainage facilities may include facilities which result in combined drainage facilities and electric generation, except that the electricity generated thereby is a byproduct of the drainage system. Such electricity may be used by the district or sold to any entity authorized by law to distribute electricity. Electricity is deemed a byproduct when the electrical generation is subordinate to the primary purpose of drainage collection, disposal, and treatment. For such purposes, a district may conduct storm or surface water throughout the district and throughout other political subdivisions within the district, construct and lay drainage pipe and culverts along and upon public highways, roads, and streets, within and without the district, and condemn and purchase or acquire land and rights of way necessary for such drainage systems. A district may provide or erect facilities and improvements for the treatment and disposal of storm or surface water within or without the district, and may acquire, by purchase or condemnation, properties or privileges necessary to be had to protect any lakes, rivers, or watercourses and also other areas of land from pollution from storm or surface waters. For the purposes of drainage facilities which include facilities that also generate electricity as a byproduct, nothing in this section may be construed to authorize a district to condemn electric generating, transmission, or distribution rights or facilities of entities authorized by law to distribute electricity, or to acquire such rights or facilities without the consent of the owners;

(7) To construct, condemn, acquire, and own buildings and other necessary district facilities;

(8) To compel all property owners within the district located within an area served by the district's system of sewers to connect their private drain and sewer systems with the district's system under such penalty as the commissioners shall prescribe by resolution. The district may for such purpose enter upon private property and connect the private drains or sewers with the district system and the cost thereof shall be charged against the property owner and shall be a lien upon property served;

(9) Where a district contains within its borders, abuts, or is located adjacent to any lake, stream, ground water as defined by RCW 90.44.035, or other waterway within the state of Washington, to provide for the reduction,

minimization, or elimination of pollutants from those waters in accordance with the district's comprehensive plan, and to issue general obligation bonds, revenue bonds, local improvement district bonds, or utility local improvement bonds for the purpose of paying all or any part of the cost of reducing, minimizing, or eliminating the pollutants from these waters;

(10) Subject to subsection (6) of this section, to fix rates and charges for water, sewer, and drain service supplied and to charge property owners seeking to connect to the district's systems, as a condition to granting the right to so connect, in addition to the cost of the connection, such reasonable connection charge as the board of commissioners shall determine to be proper in order that those property owners shall bear their equitable share of the cost of the system. For the purposes of calculating a connection charge, the board of commissioners shall determine the pro rata share of the cost of existing facilities and facilities planned for construction within the next ten years and contained in an adopted comprehensive plan and other costs borne by the district which are directly attributable to the improvements required by property owners seeking to connect to the system. The cost of existing facilities shall not include those portions of the system which have been donated or which have been paid for by grants. The connection charge may include interest charges applied from the date of construction of the system until the connection, or for a period not to exceed ten years, whichever is shorter, at a rate commensurate with the rate of interest applicable to the district at the time of construction or major rehabilitation of the system, or at the time of installation of the lines to which the property owner is seeking to connect. A district may permit payment of the cost of connection and the reasonable connection charge to be paid with interest in installments over a period not exceeding fifteen years. The county treasurer may charge and collect a fee of three dollars for each year for the treasurer's services. Those fees shall be a charge to be included as part of each annual installment, and shall be credited to the county current expense fund by the county treasurer. Revenues from connection charges excluding permit fees are to be considered payments in aid of construction as defined by department of revenue rule. Rates or charges for on-site inspection and maintenance services may not be imposed under this chapter on the development, construction, or reconstruction of property.

Before adopting on-site inspection and maintenance utility services, or incorporating residences into an on-site inspection and maintenance or sewer utility under this chapter, notification must be provided, prior to the applicable public hearing, to all residences within the proposed service area that have on-site systems permitted by the local health officer. The notice must clearly state that the residence is within the proposed service area and must provide information on estimated rates or charges that may be imposed for the service.

A water-sewer district shall not provide on-site sewage system inspection, pumping services, or other maintenance or repair services under this section using water-sewer district employees unless the on-site system is connected by a publicly owned collection system to the water-sewer district's sewerage system, and the on-site system represents the first step in the sewage disposal process.

Except as otherwise provided in RCW 90.03.525, any public entity and public property, including the state of Washington and state property, shall be subject to rates and charges for sewer, water, storm water control, drainage, and street lighting facilities to the same extent private persons and private property

are subject to those rates and charges that are imposed by districts. In setting those rates and charges, consideration may be made of in-kind services, such as stream improvements or donation of property;

(11) To contract with individuals, associations and corporations, the state of Washington, and the United States;

(12) To employ such persons as are needed to carry out the district's purposes and fix salaries and any bond requirements for those employees;

(13) To contract for the provision of engineering, legal, and other professional services as in the board of commissioner's discretion is necessary in carrying out their duties;

(14) To sue and be sued;

(15) To loan and borrow funds and to issue bonds and instruments evidencing indebtedness under chapter 57.20 RCW and other applicable laws;

(16) To transfer funds, real or personal property, property interests, or services subject to RCW 57.08.015;

(17) To levy taxes in accordance with this chapter and chapters 57.04 and 57.20 RCW;

(18) To provide for making local improvements and to levy and collect special assessments on property benefitted thereby, and for paying for the same or any portion thereof in accordance with chapter 57.16 RCW;

(19) To establish street lighting systems under RCW 57.08.060;

(20) To exercise such other powers as are granted to water-sewer districts by this title or other applicable laws; and

(21) To exercise any of the powers granted to cities and counties with respect to the acquisition, construction, maintenance, operation of, and fixing rates and charges for waterworks and systems of sewerage and drainage.

Sec. 6. RCW 57.08.081 and 1999 c 153 s 11 are each amended to read as follows:

(1) Subject to RCW 57.08.005(6), the commissioners of any district shall provide for revenues by fixing rates and charges for furnishing sewer and drainage service and facilities to those to whom service is available or for providing water, such rates and charges to be fixed as deemed necessary by the commissioners, so that uniform charges will be made for the same class of customer or service and facility. Rates and charges may be combined for the furnishing of more than one type of sewer or drainage service and facilities.

(2) In classifying customers of such water, sewer, or drainage system, the board of commissioners may in its discretion consider any or all of the following factors: The difference in cost to various customers; the location of the various customers within and without the district; the difference in cost of maintenance, operation, repair, and replacement of the various parts of the system; the different character of the service furnished various customers; the quantity and quality of the service and facility furnished; the time of its use; the achievement of water conservation goals and the discouragement of wasteful practices; capital contributions made to the system including but not limited to assessments; and any other matters which present a reasonable difference as a ground for distinction. Rates shall be established as deemed proper by the commissioners and as fixed by resolution and 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 efficient and proper operation of the system. Prior to furnishing services, a district may require a deposit to guarantee payment for services. However, failure to require a deposit does not affect the validity of any lien authorized by this section.

(3) The commissioners shall enforce collection of connection charges, and rates and charges for water supplied against property owners connecting with the system or receiving such water, and for sewer and drainage services charged against property to which and its owners to whom the service is available, such charges being deemed charges against the property served, by addition of penalties of not more than ten percent thereof in case of failure to pay the charges at times fixed by resolution. The commissioners may provide by resolution that where either connection charges or rates and charges for services supplied are delinquent for any specified period of time, the district shall certify the delinquencies to the auditor of the county in which the real property is located, and the charges and any penalties added thereto and interest thereon at the rate of not more than the prime lending rate of the district's bank plus four percentage points per year shall be a lien against the property upon which the service was received, subject only to the lien for general taxes.

(4) The district may, at any time after the connection charges or rates and charges for services supplied or available and penalties are delinquent for a period of sixty days, bring suit in foreclosure by civil action in the superior court of the county in which the real property is located. The court may allow, in addition to the costs and disbursements provided by statute, attorneys' fees, title search and report costs, and expenses as it adjudges reasonable. The action shall be in rem, and may be brought in the name of the district against an individual or against all of those who are delinquent in one action. The laws and rules of the court shall control as in other civil actions.

(5) In addition to the right to foreclose provided in this section, the district may also cut off all or part of the service after charges for water or sewer service supplied or available are delinquent for a period of thirty days.

(6) A district may determine how to apply partial payments on past due accounts.

(7) A district may provide a real property owner or the owner's designee with duplicate bills for service to tenants, or may notify an owner or the owner's designee that a tenant's service account is delinquent. However, if an owner or the owner's designee notifies the district in writing that a property served by the district is a rental property, asks to be notified of a tenant's delinquency, and has provided, in writing, a complete and accurate mailing address, the district shall notify the owner or the owner's designee of a tenant's delinquency at the same time and in the same manner the district notifies the tenant of the tenant's delinquency or by mail. When a district provides a real property owner or the owner's designee with duplicates of tenant utility service bills or notice that a tenant's utility account is delinquent, the district shall notify the tenant that it is providing the duplicate bills or delinquency notice to the owner or the owner's designee. After January 1, 1999, if a district fails to notify the owner of a tenant's delinquency after receiving a written request to do so and after receiving the other information required by this subsection (7), the district shall have no lien against the premises for the tenant's delinquent and unpaid charges.

Sec. 7. RCW 84.33.210 and 2001 c 249 s 6 are each amended to read as follows:

(1) Any land that is designated as forest land under this chapter at the earlier of the times the legislative authority of a local government adopts a resolution, ordinance, or legislative act (a) to create a local improvement district, in which the land is included or would have been included but for the designation, or (b) to approve or confirm a final special benefit assessment roll relating to a sanitary or storm sewerage system, domestic water supply or distribution system, or road construction or improvement, which roll would have included the land but for the designation, shall be exempt from special benefit assessments ~~((or)),~~ charges in lieu of assessment, or rates and charges for storm water control facilities under RCW 36.89.080 for such purposes as long as that land remains designated as forest land, except as otherwise provided in RCW 84.33.250.

(2) Whenever a local government creates a local improvement district, the levying, collection, and enforcement of assessments shall be in the manner and subject to the same procedures and limitations as are provided under the law concerning the initiation and formation of local improvement districts for the particular local government. Notice of the creation of a local improvement district that includes designated forest land shall be filed with the assessor and the legislative authority of the county in which the land is located. The assessor, upon receiving notice of the creation of a local improvement district, shall send a notice to the owners of the designated forest lands listed on the tax rolls of the applicable treasurer of:

(a) The creation of the local improvement district;

(b) The exemption of that land from special benefit assessments;

(c) The fact that the designated forest land may become subject to the special benefit assessments if the owner waives the exemption by filing a notarized document with the governing body of the local government creating the local improvement district before the confirmation of the final special benefit assessment roll; and

(d) The potential liability, pursuant to RCW 84.33.220, if the exemption is not waived and the land is subsequently removed from designated forest land status.

(3) When a local government approves and confirms a special benefit assessment roll, from which designated forest land has been exempted under this section, it shall file a notice of this action with the assessor and the legislative authority of the county in which the land is located and with the treasurer of that local government. The notice shall describe the action taken, the type of improvement involved, the land exempted, and the amount of the special benefit assessment that would have been levied against the land if it had not been exempted. The filing of the notice with the assessor and the treasurer of that local government shall constitute constructive notice to a purchaser or encumbrancer of the affected land, and every person whose conveyance or encumbrance is subsequently executed or subsequently recorded, that the exempt land is subject to the charges provided in RCW 84.33.220 and 84.33.230, if the land is removed from its designation as forest land.

(4) The owner of the land exempted from special benefit assessments under this section may waive that exemption by filing a notarized document to that effect with the legislative authority of the local government upon receiving

notice from said local government concerning the assessment roll hearing and before the local government confirms the final special benefit assessment roll. A copy of that waiver shall be filed by the local government with the assessor, but the failure to file this copy shall not affect the waiver.

(5) Except to the extent provided in RCW 84.33.250, the local government shall have no duty to furnish service from the improvement financed by the special benefit assessment to the exempted land.

Sec. 8. RCW 86.15.160 and 1986 c 278 s 60 are each amended to read as follows:

For the purposes of this chapter the supervisors may authorize:

(1) An annual excess ad valorem tax levy within any zone or participating zones when authorized by the voters of the zone or participating zones under RCW 84.52.052 and 84.52.054;

(2) An assessment upon property, including state property, specially benefited by flood control improvements or storm water control improvements imposed under chapter 86.09 RCW;

(3) Within any zone or participating zones an annual ad valorem property tax levy of not to exceed fifty cents per thousand dollars of assessed value when the levy will not take dollar rates that other taxing districts may lawfully claim and that will not cause the combined levies to exceed the constitutional and/or statutory limitations, and the additional levy, or any portion thereof, may also be made when dollar rates of other taxing units is released therefor by agreement with the other taxing units from their authorized levies;

(4) A charge, under RCW 36.89.080, for the furnishing of service to those who are receiving or will receive benefits from storm water control facilities and who are contributing to an increase in surface water runoff. The rate or charge imposed under this section shall be reduced by a minimum of ten percent for any new or remodeled commercial building that utilizes a permissive rainwater harvesting system. Rainwater harvesting systems shall be properly sized to utilize the available roof surface of the building. The jurisdiction shall consider rate reductions in excess of ten percent dependent upon the amount of rainwater harvested;

(5) Except as otherwise provided in RCW 90.03.525, any public entity and public property, including the state and state property, shall be liable for the charges to the same extent a private person and privately owned property is liable for the charges, and in setting these rates and charges, consideration may be made of in-kind services, such as stream improvements or donation of property;

~~((5))~~ (6) The creation of local improvement districts and utility local improvement districts, the issuance of improvement district bonds and warrants, and the imposition, collection, and enforcement of special assessments on all property, including any state-owned or other publicly-owned property, specially benefited from improvements in the same manner as provided for counties by chapter 36.94 RCW.

Passed by the House April 24, 2003.

Passed by the Senate April 10, 2003.

Approved by the Governor May 20, 2003.

Filed in Office of Secretary of State May 20, 2003.

CHAPTER 395

[Substitute House Bill 1100]

AGRICULTURAL PRODUCTS

AN ACT Relating to regulating the sale, processing, or purchase of agricultural products; amending RCW 20.01.010, 20.01.130, 20.01.140, 20.01.211, 20.01.240, 20.01.320, 20.01.410, 20.01.460, 20.01.490, and 20.01.610; creating a new section; and prescribing penalties.

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

Sec. 1. RCW 20.01.010 and 1991 c 174 s 1 are each amended to read as follows:

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

(1) "Director" means the director of agriculture or (~~his~~) a duly authorized representative.

(2) "Person" means any natural person, firm, partnership, exchange, association, trustee, receiver, corporation, and any member, officer, or employee thereof or assignee for the benefit of creditors.

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

(4) "Producer" means any person engaged in the business of growing or producing any agricultural product, whether as the owner of the products, or producing the products for others holding the title thereof.

(5) "Consignor" means any producer, person, or his agent who sells, ships, or delivers to any commission merchant, dealer, cash buyer, or agent, any agricultural product for processing, handling, sale, or resale.

(6) "Commission merchant" means any person who receives on consignment for sale or processing and sale from the consignor thereof any agricultural product for sale on commission on behalf of the consignor, or who accepts any farm product in trust from the consignor thereof for the purpose of resale, or who sells or offers for sale on commission any agricultural product, or who in any way handles for the account of or as an agent of the consignor thereof, any agricultural product.

(7) "Dealer" means any person other than a cash buyer, as defined in subsection (10) of this section, who solicits, contracts for, or obtains from the consignor thereof for reselling or processing, title, possession, or control of any agricultural product, or who buys or agrees to buy any agricultural product from the consignor thereof for sale or processing and includes any person, other than one who acts solely as a producer, who retains title in an agricultural product and delivers it to a producer for further production or increase. For the purposes of this chapter, the term dealer includes any person who purchases livestock on behalf of and for the account of another, or who purchases cattle in another state or country and imports these cattle into this state for resale.

(8) "Limited dealer" means any person (~~operating~~) who buys, agrees to buy, or pays for the production or increase of any agricultural product by paying to the consignor at the time of obtaining possession or control of any agricultural product the full agreed price of the agricultural product and who operates under the alternative bonding provision in RCW 20.01.211.

(9) "Broker" means any person other than a commission merchant, dealer, or cash buyer who negotiates the purchase or sale of any agricultural product, but no broker may handle the agricultural products involved or proceeds of the sale.

(10) "Cash buyer" means any person other than a commission merchant, dealer, or broker, who obtains from the consignor thereof for the purpose of resale or processing, title, possession, or control of any agricultural product or who contracts for the title, possession, or control of any agricultural product, or who buys or agrees to buy for resale any agricultural product by paying to the consignor at the time of obtaining possession or control of any agricultural product the full agreed price of the agricultural product, in coin or currency, lawful money of the United States. However, a cashier's check, certified check, credit card, or bankdraft may be used for the payment. For the purposes of this subsection, "agricultural product," does not include hay, grain, straw, or livestock.

(11) "Agent" means any person who, on behalf of any commission merchant, dealer, broker, or cash buyer, acts as liaison between a consignor and a principal, or receives, contracts for, or solicits any agricultural product from the consignor thereof or who negotiates the consignment or purchase of any agricultural product on behalf of any commission merchant, dealer, broker, or cash buyer and who transacts all or a portion of that business at any location other than at the principal place of business of his employer. With the exception of an agent for a commission merchant or dealer handling horticultural products, an agent may operate only in the name of one principal and only to the account of that principal.

(12) "Retail merchant" means any person operating from a bona fide or established place of business selling agricultural products twelve months of each year.

(13) "Fixed or established place of business" for the purpose of this chapter means any permanent warehouse, building, or structure, at which necessary and appropriate equipment and fixtures are maintained for properly handling those agricultural products generally dealt in, and at which supplies of the agricultural products being usually transported are stored, offered for sale, sold, delivered, and generally dealt with in quantities reasonably adequate for and usually carried for the requirements of such a business, and that is recognized as a permanent business at such place, and carried on as such in good faith and not for the purpose of evading this chapter, and where specifically designated personnel are available to handle transactions concerning those agricultural products generally dealt in, which personnel are available during designated and appropriate hours to that business, and shall not mean a residence, barn, garage, tent, temporary stand or other temporary quarters, any railway car, or permanent quarters occupied pursuant to any temporary arrangement.

(14) "Processor" means any person, firm, company, or other organization that purchases agricultural crops from a consignor and that cans, freezes, dries, dehydrates, cooks, presses, powders, or otherwise processes those crops in any manner whatsoever for eventual resale.

(15) "Pooling contract" means any written agreement whereby a consignor delivers a horticultural product to a commission merchant under terms whereby

the commission merchant may commingle the consignor's horticultural products for sale with others similarly agreeing, which must include all of the following:

(a) A delivery receipt for the consignor that indicates the variety of horticultural product delivered, the number of containers, or the weight and tare thereof;

(b) Horticultural products received for handling and sale in the fresh market shall be accounted for to the consignor with individual pack-out records that shall include variety, grade, size, and date of delivery. Individual daily packing summaries shall be available within forty-eight hours after packing occurs. However, platform inspection shall be acceptable by mutual contract agreement on small deliveries to determine variety, grade, size, and date of delivery;

(c) Terms under which the commission merchant may use his judgment in regard to the sale of the pooled horticultural product;

(d) The charges to be paid by the consignor as filed with the state of Washington;

(e) A provision that the consignor shall be paid for his pool contribution when the pool is in the process of being marketed in direct proportion, not less than eighty percent of his interest less expenses directly incurred, prior liens, and other advances on the grower's crop unless otherwise mutually agreed upon between grower and commission merchant.

(16) "Date of sale" means the date agricultural products are delivered to the person buying the products.

(17) "Conditioner" means any person, firm, company, or other organization that receives turf, forage, or vegetable seeds from a consignor for drying or cleaning.

(18) "Seed bailment contract" means any contract meeting the requirements of chapter 15.48 RCW.

(19) "Proprietary seed" means any seed that is protected under the Federal Plant Variety Protection Act.

(20) "Licensed public weighmaster" means any person, licensed under the provisions of chapter 15.80 RCW, who weighs, measures, or counts any commodity or thing and issues therefor a signed certified statement, ticket, or memorandum of weight, measure, or count upon which the purchase or sale of any commodity or upon which the basic charge of payment for services rendered is based.

(21) "Certified weight" means any signed certified statement or memorandum of weight, measure or count issued by a licensed public weighmaster in accordance with the provisions of chapter 15.80 RCW.

(22) "Licensee" means any person or business licensed under this chapter as a commission merchant, dealer, limited dealer, broker, cash buyer, or agent.

Sec. 2. RCW 20.01.130 and 1993 sp.s. c 24 s 929 are each amended to read as follows:

All fees and other moneys received by the department under ~~((the provisions of))~~ this chapter shall be paid to the director and ~~((shall be))~~ used solely for the purpose of carrying out ~~((the provisions of))~~ this chapter and the rules adopted ((hereunder or for departmental administrative expenses during the 1993-95 biennium)) under this chapter. All civil fines received by the courts as the result of notices of infractions issued by the director shall be paid to the director, less any mandatory court costs and assessments.

Sec. 3. RCW 20.01.140 and 1959 c 139 s 14 are each amended to read as follows:

Any change in the organization of any firm, association, exchange, corporation, or partnership licensed under ~~((the provisions of))~~ this chapter shall be reported to the director and the licensee's surety or sureties within thirty days.

Sec. 4. RCW 20.01.211 and 1983 c 305 s 5 are each amended to read as follows:

(1) In lieu of the bonding provision required by RCW 20.01.210, any dealer who buys, agrees to buy, or pays for the production or increase of any agricultural product by paying to the consignor at the time of obtaining possession or control of any agricultural product the full agreed price of the agricultural product may file a bond in an amount equal to the dealer's maximum monthly purchases, divided by ~~((fifteen))~~ twelve, but the minimum bond ~~((provided by))~~ under this section shall be ~~((in a minimum of seven thousand five hundred))~~ no less than ten thousand dollars.

(2) Any dealer using the bonding provisions of this section shall file an affidavit with the director that sets forth the dealer's maximum monthly purchases from or payments to consignors. The affidavit shall be filed at the time of application and with each renewal.

(3) Any dealer bonded under this section who is found to be in violation of this chapter shall be required to comply with the bonding requirements of RCW 20.01.210 for a minimum of two years.

Sec. 5. RCW 20.01.240 and 1986 c 178 s 12 are each amended to read as follows:

(1) ~~((Except as provided in subsection (2) of this section,))~~ Any consignor who believes he or she has a valid claim against the bond of a commission merchant or dealer shall file a claim with the director. ~~((Upon the filing of a claim under this subsection against any commission merchant or dealer handling any agricultural product, the director may, after investigation, proceed to ascertain the names and addresses of all consignor creditors of such commission merchant and dealer, together with the amounts due and owing to them by such commission merchant and dealer, and shall request all such consignor creditors to file a verified statement of their respective claims with the director. Such request shall be addressed to each known consignor creditor at his last known address.~~

(2) ~~Any consignor who believes he or she has a valid claim against the bond of a commission merchant or dealer in hay or straw, shall file a claim with the director within twenty days of the licensee's default. In the case of a claim against the bond of a commission merchant or unlimited dealer in hay or straw, default occurs when the licensee fails to make payment within thirty days of the date the licensee took possession of the hay or straw. In the case of a claim against a limited dealer in hay or straw, default occurs when the licensee fails to make payment upon taking possession of the hay or straw. Upon verifying the consignor's claim either through investigation or, if necessary, an administrative action, the director shall, within ten working days of the filing of the claim, make demand for payment of the claim by the licensee's surety without regard to any other potentially valid claim. Any subsequent claim will likewise result in a~~

demand against the licensee's surety, subject to the availability of any remaining bond proceeds:))

(2) In the case of a claim against the bond of a commission merchant or dealer in hay or straw, default occurs when the licensee fails to make payment within thirty days of the date the licensee took possession of the hay or straw or at a date agreed to by both the consignor and commission merchant or dealer in written contract. In the case of a claim against a limited dealer in hay or straw, default occurs when the licensee fails to make payment upon taking possession of the hay or straw.

(3) Upon the filing of a claim under this subsection against any commission merchant or dealer handling any agricultural product, the director may, after investigation, proceed to ascertain the names and addresses of all consignor creditors of such commission merchant and dealer, together with the amounts due and owing to them by such commission merchant and dealer, and shall request all such consignor creditors to file a verified statement of their respective claims with the director. Such request shall be addressed to each known consignor creditor at his last known address.

(4) For claims against a bond that have been filed by consignors prior to the sixty-day deadline established in RCW 20.01.250, the director shall investigate the claims and, within thirty days of verifying the claims, demand payment for the valid claims by the licensee's surety. The director shall distribute the proceeds of the valid bond claims to the claimants on a pro rata basis within the limits of the claims and the availability of the bond proceeds. If a claim is filed after the sixty-day deadline established in RCW 20.01.250, the director may investigate the claim and may demand payment for a valid claim. The director shall distribute the proceeds of any such payment made by the surety to the claimant on a first-to-file, first-to-be-paid basis within the limits of the claim and the availability of any bond proceeds remaining after the pro rata distribution. All distributions made by the director under this subsection are subject to RCW 20.01.260.

Sec. 6. RCW 20.01.320 and 1959 c 139 s 32 are each amended to read as follows:

The director on his or her own motion or upon the verified complaint of any interested party may investigate, examine, or inspect (1) any transaction involving solicitation, receipt, sale, or attempted sale of agricultural products by any person or persons acting or assuming to act as a commission merchant, dealer, broker, cash buyer, or agent; (2) the failure to make proper and true account of sales and settlement thereof as required under this chapter ~~((and/or))~~ or rules ~~((and regulations))~~ adopted ~~((hereunder))~~ under this chapter; (3) the intentional making of false statements as to conditions and quantity of any agricultural products received or in storage; (4) the intentional making of false statements as to market conditions; (5) the failure to make payment for products within the time required by this chapter; (6) any and all other injurious transactions. In furtherance of ~~((any))~~ such an investigation, examination, or inspection, the director or ~~((his))~~ an authorized representative~~((;))~~ may examine that portion of the ledgers, books, accounts, memoranda and other documents, agricultural products, scales, measures, and other articles and things used in connection with the business of ~~((such))~~ the person relating to the transactions involved. For the purpose of ~~((such))~~ the investigation the director shall at all

times have free and unimpeded access to all buildings, yards, warehouses, storage, and transportation facilities or any other place where agricultural products are kept, stored, handled, or transported. If the director is denied access, the director may apply to any court of competent jurisdiction for a search warrant authorizing access to the premises and records. The court may upon the application issue the search warrant for the purposes requested. The director may also, for the purpose of ~~((such))~~ the investigation, issue subpoenas to compel the attendance of witnesses, as provided in RCW 20.01.170, ~~((and/or))~~ or the production of books or documents, anywhere in the state.

Sec. 7. RCW 20.01.410 and 1971 ex.s. c 182 s 12 are each amended to read as follows:

(1) A copy of a manifest of cargo, on a form prescribed by the director, shall be carried on any vehicle transporting agricultural products purchased by a dealer or cash buyer, or consigned to a commission merchant from the consignor thereof when prescribed by the director. A bill of lading may be carried in lieu of a manifest of cargo for an agricultural product other than hay or straw.

(2) Except as provided in subsection (3) of this section, the commission merchant, dealer, or cash buyer of agricultural products shall issue a copy of ((such)) the manifest or bill of lading to the consignor of ((such)) the agricultural products and the original shall be retained by the licensee for a period of ((one)) three years during which time it shall be surrendered upon request to the director. ((Such)) The manifest of cargo ((shall be)) is valid only when signed by the licensee or his or her agent and the consignor or his or her authorized representative of ((such)) the agricultural products.

(3) The commission merchant or dealer of hay or straw shall issue a copy of a manifest to the consignor. The original copy shall be retained by the commission merchant or dealer for a period of three years during which time it shall be surrendered upon request to the director. The manifest of cargo is valid only when signed by the licensee or his or her agent and the consignor or his or her authorized representative of hay or straw.

(4) Manifest forms will be provided to licensees at the actual cost for the manifests plus necessary handling costs incurred by the department.

Sec. 8. RCW 20.01.460 and 1989 c 354 s 43 are each amended to read as follows:

(1) Any person who violates the provisions of this chapter or fails to comply with the rules adopted under this chapter is guilty of a gross misdemeanor, except as provided in subsections (2) ~~((and (3)))~~ through (4) of this section.

(2) Any commission merchant, dealer, or cash buyer, or any person assuming or attempting to act as a commission merchant, dealer, or cash buyer without a license is guilty of a class C felony who:

(a) Imposes false charges for handling or services in connection with agricultural products.

(b) Makes fictitious sales or is guilty of collusion to defraud the consignor.

(c) Intentionally makes false statement or statements as to the grade, conditions, markings, quality, or quantity of goods shipped or packed in any manner.

(d) With the intent to defraud the consignor, fails to comply with the requirements set forth under RCW 20.01.010(10), 20.01.390, or 20.01.430.

(3) Any person who violates the provisions of RCW 20.01.040, 20.01.080, 20.01.120, 20.01.125, 20.01.410, or 20.01.610 has committed a civil infraction.

(4) Unlawful issuance of a check or draft may be prosecuted under RCW 9A.56.060.

Sec. 9. RCW 20.01.490 and 1986 c 178 s 5 are each amended to read as follows:

Any person found to have committed a civil infraction under this chapter shall be assessed a monetary penalty. No monetary penalty so assessed may exceed ~~((one))~~ five thousand dollars. The director shall adopt a schedule of monetary penalties for each violation of this chapter classified as a civil infraction and shall submit the schedule to the proper courts. Whenever a monetary penalty is imposed by the court, the penalty is immediately due and payable. The court may, at its discretion, grant an extension of time, not to exceed thirty days, in which the penalty must be paid. Failure to pay any monetary penalties imposed under this chapter shall be punishable as a misdemeanor.

Sec. 10. RCW 20.01.610 and 1986 c 178 s 14 are each amended to read as follows:

The director or ~~((his))~~ appointed officers may stop a vehicle transporting ~~((hay or straw))~~ agricultural products upon the public roads of this state if there is reasonable cause to believe the carrier, seller, or buyer may be in violation of this chapter. Any operator of a vehicle failing or refusing to stop when directed to do so has committed a civil infraction.

The director and appointed officers shall work to ensure that vehicles carrying perishable agricultural products are detained no longer than is absolutely necessary for a prompt assessment of compliance with this chapter. If a vehicle carrying perishable agricultural products is found to be in violation of this chapter, the director or appointed officers shall promptly issue necessary notices of civil infraction, as provided in RCW 20.01.482 and 20.01.484, and shall allow the vehicle to continue toward its destination without further delay.

NEW SECTION. Sec. 11. In recognition of the significant losses incurred by seed producers in the state from a recent seed company bankruptcy and the increasing diversity of and changes in the state's seed industry, the department of agriculture shall conduct a study of alternative methods of reducing the risk of nonpayment of producers from seed company bankruptcies and increasing the financial recovery for seed producers should such bankruptcies occur. The study shall evaluate alternative methods of addressing issues relating to nonpayment of producers, including the potential of establishing an indemnity fund, and how the costs of providing and maintaining such a fund would be borne. The department shall evaluate whether establishing an indemnity fund would be in addition to or as a substitute for any current bonding requirements for various types of seed crops and seed contracts, including bailment contracts. The department shall establish an advisory committee including representatives of producers and seed companies of various types of agricultural seeds grown in this state to assist it in the study.

The department shall report the results of the study, including any recommended legislation in bill form, to the governor and to the appropriate committees of the legislature by December 1, 2003.

Passed by the House April 27, 2003.

Passed by the Senate April 26, 2003.

Approved by the Governor May 20, 2003.

Filed in Office of Secretary of State May 20, 2003.

CHAPTER 396

[House Bill 1361]

AGRICULTURAL COMMODITY COMMISSIONS

AN ACT Relating to the state agricultural commodity commissions; amending RCW 15.66.030, 15.66.140, 15.66.185, 15.66.110, 15.65.220, 15.28.020, 15.28.040, 15.28.050, 15.28.060, 15.28.070, 15.28.080, 15.44.020, 15.44.033, 15.44.035, 15.44.150, 16.67.040, 15.88.030, 15.88.040, 15.88.050, 15.88.100, and 15.88.180; adding new sections to chapter 15.66 RCW; adding new sections to chapter 15.65 RCW; adding new sections to chapter 15.28 RCW; adding new sections to chapter 15.44 RCW; adding new sections to chapter 16.67 RCW; adding new sections to chapter 15.88 RCW; creating a new section; repealing RCW 15.66.115 and 15.65.245; and declaring an emergency.

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

Sec. 1. RCW 15.66.030 and 2002 c 313 s 40 are each amended to read as follows:

Marketing orders may be made for any one or more of the following purposes:

(1) To establish plans and conduct programs for advertising and sales promotion, to maintain present markets, or to create new or larger markets for any agricultural commodity grown in the state of Washington;

(2) To provide for carrying on research studies to find more efficient methods of production, irrigation, processing, transportation, handling, and marketing of any agricultural commodity;

(3) To provide for improving standards and grades by defining, establishing, and providing labeling requirements with respect to the same;

(4) To investigate and take necessary action to prevent unfair trade practices;

(5) To provide information or communicate on matters pertaining to the production, irrigation, processing, transportation, marketing, or uses of an agricultural commodity produced in Washington state to any elected official or officer or employee of any agency;

(6) To provide marketing information and services for producers of an agricultural commodity;

(7) To provide information and services for meeting resource conservation objectives of producers of an agricultural commodity;

(8) To engage in cooperative efforts in the domestic or foreign marketing of food products of an agricultural commodity; ~~((and))~~

(9) To provide for commodity-related education and training; and

(10) To assist and cooperate with the department or any other local, state, or federal government agency in the investigation and control of exotic pests and diseases that could damage or affect trade of the affected commodity.

Sec. 2. RCW 15.66.140 and 2002 c 313 s 57 are each amended to read as follows:

Every commodity commission shall have such powers and duties in accordance with provisions of this chapter as may be provided in the marketing order and shall have the following powers and duties:

- (1) To elect a chair and such other officers as determined advisable;
- (2) To adopt, rescind and amend rules and regulations reasonably necessary for the administration and operation of the commission and the enforcement of its duties under the marketing order;
- (3) To administer, enforce, direct and control the provisions of the marketing order and of this chapter relating thereto;
- (4) To employ and discharge at its discretion such administrators and additional personnel, attorneys, advertising and research agencies and other persons and firms that it may deem appropriate and pay compensation to the same;
- (5) To acquire personal property and purchase or lease office space and other necessary real property and transfer and convey the same;
- (6) To institute and maintain in its own name any and all legal actions, including actions by injunction, mandatory injunction or civil recovery, or proceedings before administrative tribunals or other governmental authorities necessary to carry out the provisions of this chapter and of the marketing order;
- (7) To keep accurate records of all its receipts and disbursements, which records shall be open to inspection and audit by the state auditor or private auditor designated by the state auditor at least every five years;
- (8) Borrow money and incur indebtedness;
- (9) Make necessary disbursements for routine operating expenses;
- (10) To expend funds for commodity-related education, training, and leadership programs as each commission deems expedient;
- (11) To work cooperatively with other local, state, and federal agencies; universities; and national organizations for the purposes provided in the commission's marketing order;
- (12) To enter into contracts or interagency agreements with any private or public agency, whether federal, state, or local, to carry out the purposes provided in the commission's marketing order. Personal service contracts must comply with chapter 39.29 RCW;
- (13) To accept and expend or retain any gifts, bequests, contributions, or grants from private persons or private and public agencies to carry out the purposes provided in the commission's marketing order;
- (14) To enter into contracts or agreements for research in the production, irrigation, processing, transportation, marketing, use, or distribution of an affected commodity;
- (15) To retain in emergent situations the services of private legal counsel to conduct legal actions on behalf of a commission. The retention of a private attorney is subject to review by the office of the attorney general;
- (16) To engage in appropriate fund-raising activities for the purpose of supporting activities of the commission authorized by the marketing order;
- (17) To participate in international, federal, state, and local hearings, meetings, and other proceedings relating to the production, irrigation, manufacture, regulation, transportation, distribution, sale, or use of affected commodities including activities authorized under RCW 42.17.190, including the reporting of those activities to the public disclosure commission;

(18) To maintain a list of the names and addresses of affected producers that may be compiled from information used to collect assessments under the provisions of the marketing order and data on the value of each producer's production for a minimum three-year period;

(19) To maintain a list of the names and addresses of persons who handle the affected commodity within the affected area and data on the amount and value of the commodity handled for a minimum three-year period by each person; ~~((and))~~

(20) To request records and audit the records of producers or handlers of the affected commodity during normal business hours to determine whether the appropriate assessment has been paid;

(21) To acquire or own intellectual property rights, licenses, or patents and to collect royalties resulting from commission-funded research related to the affected commodity; and

(22) Such other powers and duties that are necessary to carry out the purposes of this chapter.

Sec. 3. RCW 15.66.185 and 2002 c 313 s 62 are each amended to read as follows:

(1) Any funds of any agricultural commodity commission may be invested in savings or time deposits in banks, trust companies, and mutual savings banks that are doing business in the United States, up to the amount of insurance afforded such accounts by the Federal Deposit Insurance Corporation.

(2) This section shall apply to all funds which may be lawfully so invested, which in the judgment of any agricultural commodity commission are not required for immediate expenditure. The authority granted by this section is not exclusive and shall be construed to be cumulative and in addition to other authority provided by law for the investment of such funds, including, but not limited to, authority granted under chapters 39.58, 39.59, and 43.84 RCW.

Sec. 4. RCW 15.66.110 and 2002 c 313 s 51 are each amended to read as follows:

(1) Every marketing order shall establish a commodity commission composed of not less than five nor more than ~~((thirteen))~~ fifteen members. ~~((In addition, the director shall be an ex officio member of each commodity commission unless otherwise specified in the marketing order.))~~ Commission members shall be citizens and residents of this state if required by the marketing order, and over the age of eighteen. Not more than one commission member may be part of the same "person" as defined by this chapter. The term of office of commission members shall be three years with the terms rotating so that one-third of the terms will commence as nearly as practicable each year. However, the first commission shall be selected, one-third for a term of one year, one-third for a term of two years, and one-third for a term of three years, as nearly as practicable. Except as provided in subsection (2) of this section, no less than ~~((two-thirds))~~ sixty percent of the commission members shall be elected by the affected producers and such elected members shall all be affected producers. Except as provided in subsection (4) of this section, the remaining members shall be appointed by the commission and shall be either affected producers, others active in matters relating to the affected commodity, or persons not so related.

(2) A marketing order may provide that a majority of the commission be appointed by the director(~~(, but in any event, no less than one third of the commission members shall be elected by the affected producers))~~).

(3) In the event that the marketing order provides that a majority of the commission be appointed by the director, the marketing order shall incorporate ~~((either))~~ the provisions of RCW 15.66.113 ~~((or 15.66.115))~~ for member selection.

(4) The director shall appoint to every commission one member who represents the director. The director is a voting member of each commodity commission.

NEW SECTION. Sec. 5. A new section is added to chapter 15.66 RCW to read as follows:

(1) Each commodity commission shall develop and submit to the director for approval any plans, programs, and projects concerning the following:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of the affected commodity; and

(b) The establishment and effectuation of market research projects, market development projects, or both to the end that the marketing and utilization of the affected commodity may be encouraged, expanded, improved, or made more efficient.

(2) The director shall review each commodity commission's advertising or promotion program to ensure that no false claims are being made concerning the affected commodity.

(3) Each commodity commission, prior to the beginning of its fiscal year, shall prepare and submit to the director for approval its research plan, its commodity-related education and training plan, and its budget on a fiscal period basis.

(4) The director shall strive to review and make a determination of all submissions described in this section in a timely manner.

NEW SECTION. Sec. 6. A new section is added to chapter 15.66 RCW to read as follows:

Each commission organized under a marketing order adopted under this chapter exists primarily for the benefit of the people of the state of Washington and its economy. The legislature hereby charges each commission, with oversight by the director, to speak on behalf of Washington state government with regard to its particular commodity.

NEW SECTION. Sec. 7. RCW 15.66.115 (When director appoints majority of the commission—Nominations—Advisory vote—Notice—Director appoints candidate receiving the most votes—Exception) and 2002 c 313 s 53 are each repealed.

NEW SECTION. Sec. 8. The costs incurred by the department of agriculture that are associated with the implementation of section 5 of this act shall be paid for by the affected commodity commissions.

Sec. 9. RCW 15.65.220 and 2002 c 313 s 20 are each amended to read as follows:

(1) Every marketing agreement and order shall provide for the establishment of a commodity board of not less than five nor more than thirteen

members and shall specify the exact number thereof and all details as to (a) qualification, (b) nomination, (c) election or appointment by the director, (d) term of office, and (e) powers, duties, and all other matters pertaining to such board.

(2) The members of the board shall be producers or handlers or both in such proportion as the director shall specify in the marketing agreement or order, but in any marketing order or agreement the number of handlers on the board shall not exceed the number of producers thereon. The marketing order or agreement may provide that a majority of the board be appointed by the director, but in any event, no less than one-third of the board members shall be elected by the affected producers.

(3) In the event that the marketing order or agreement provides that a majority of the commodity board be appointed by the director, the marketing order or agreement shall incorporate ~~((either))~~ the provisions of RCW 15.65.243 ~~((or 15.65.245))~~ for board member selection.

(4) The director shall appoint to every board one member who represents the director. The director shall be a voting member of each commodity board.

NEW SECTION. Sec. 10. A new section is added to chapter 15.65 RCW to read as follows:

(1) Each commodity commission shall develop and submit to the director for approval any plans, programs, and projects concerning the following:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of the affected commodity; and

(b) The establishment and effectuation of market research projects, market development projects, or both to the end that the marketing and utilization of the affected commodity may be encouraged, expanded, improved, or made more efficient.

(2) The director shall review each commodity commission's advertising or promotion program to ensure that no false claims are being made concerning the affected commodity.

(3) Each commodity commission, prior to the beginning of its fiscal year, shall prepare and submit to the director for approval its research plan, its commodity-related education and training plan, and its budget on a fiscal period basis.

(4) The director shall strive to review and make a determination of all submissions described in this section in a timely manner.

NEW SECTION. Sec. 11. A new section is added to chapter 15.65 RCW to read as follows:

Each commission organized under a marketing order adopted under this chapter exists primarily for the benefit of the people of the state of Washington and its economy. The legislature hereby charges each commission, with oversight by the director, to speak on behalf of Washington state government with regard to its particular commodity.

NEW SECTION. Sec. 12. A new section is added to chapter 15.65 RCW to read as follows:

The costs incurred by the department associated with the implementation of section 10 of this act shall be paid for by the affected commodity commissions.

Sec. 13. RCW 15.28.020 and 2002 c 313 s 105 are each amended to read as follows:

The commission is composed of (~~sixteen~~) seventeen voting members, as follows: Ten producers, four dealers, and two processors, who are (~~elected and qualified~~) appointed as provided in this chapter. The director, or an authorized representative, shall be (~~an ex-officio member without a vote~~) a voting member of the commission. Other sections of this chapter that relate to the selection of voting members shall not apply to the director or his or her authorized representative.

A majority of the voting members constitute a quorum for the transaction of any business.

Sec. 14. RCW 15.28.040 and 1967 c 191 s 3 are each amended to read as follows:

Of the producer members, four shall be (~~elected~~) appointed from the first district and occupy positions one, two, three and four; four shall be (~~elected~~) appointed from the second district and occupy positions five, six, seven and eight, and two shall be (~~elected~~) appointed from the third district and occupy positions nine and ten.

Of the dealer members, two shall be (~~elected~~) appointed from each of the first and second districts and respectively occupy positions eleven and twelve from the first district and positions thirteen and fourteen from the second district.

The processor members shall be (~~elected~~) appointed from the state at large and occupy positions fifteen and sixteen. The dealer member position previously referred to as position twelve shall henceforth be position thirteen. The processor member position heretofore referred to as position fourteen shall cease to exist on March 21, 1967. The processor member position heretofore referred to as thirteen shall be known as position sixteen.

Sec. 15. RCW 15.28.050 and 1967 c 191 s 4 are each amended to read as follows:

The regular term of office of the members of the commission shall be three years commencing on May 1, following the date of (~~election~~) appointment and until their successors are (~~elected~~) appointed and qualified, except, however, that the first term of dealer position twelve in the first district shall be for two years and expire May 1, 1969.

NEW SECTION. **Sec. 16.** A new section is added to chapter 15.28 RCW to read as follows:

(1) The director shall appoint the members of the commission.

(2) Candidates for positions on the commission shall be nominated under RCW 15.28.060.

(3) Not less than sixty days nor more than seventy-five days prior to the commencement of a commission member's term, the director shall cause an advisory vote to be held for the director-appointed positions. Advisory ballots shall be mailed to all affected producers and shall be returned to the director not less than thirty days prior to the commencement of the term. The advisory ballot shall be conducted in a manner so that it is a secret ballot. The names of the two candidates receiving the most votes in the advisory vote shall be forwarded to the director for potential appointment to the commission. In the event there are only two candidates nominated for a position, an advisory vote may not be held

and the candidates' names shall be forwarded to the director for potential appointment. If only one candidate is nominated for a position, the commission shall select a second candidate whose name will be forwarded to the director.

(4) Any candidate whose name is forwarded to the director for potential appointment shall submit to the director a letter stating why he or she wishes to be appointed to the commission. The director may select either person for the position.

NEW SECTION. Sec. 17. A new section is added to chapter 15.28 RCW to read as follows:

To accomplish the transition to a commission structure where the director appoints a majority of commission members, the names of the currently elected commission members shall be forwarded to the director for appointment to the commission within thirty days of the effective date of this act. Thereafter, the director shall appoint commission members pursuant to section 16 of this act as the current commission member terms expire.

Sec. 18. RCW 15.28.060 and 1967 c 191 s 6 are each amended to read as follows:

The director shall call meetings at times and places concurred upon by the director and the commission for the purpose of nominating producer, dealer or processor members for ~~((election))~~ potential appointment to the commission when such members' terms are about to expire. Notice of such meetings shall be given at least sixty days prior to the time the respective members' term is about to expire. The nominating meetings shall be held at least sixty days prior to the expiration of the respective members' term of office.

Notice shall be given by the commission by mail to all known persons having a right to vote for such respective nominee's ~~((election))~~ potential appointment to the commission.

Further, the commission shall publish notice at least once in a newspaper of general circulation in the district where the nomination is to be held. Such a newspaper may be published daily or weekly. The failure of any person entitled to receive notice of such nominating meeting shall not invalidate such nominating meeting or the ~~((election))~~ appointment of a member nominated at such meeting.

Any person qualified to serve on the commission may be nominated orally at ~~((said))~~ the nomination meetings. Written nominations, signed by five persons qualified to vote for the said nominee, may be made for five days subsequent to ~~((said))~~ the nomination meeting. Such written nominations shall be filed with the commission at its Yakima office.

~~((Members of the commission shall be elected by a))~~ The director shall cause an advisory vote to be held for commission positions. The advisory vote shall be by secret mail ballot(, and such election shall be conducted under the supervision of the director, and the elected candidate shall become a member of the commission upon certification of the director that said elected candidate has satisfied the required qualifications for membership on the commission.

~~When only one nominee is nominated for any position on the commission, the director shall, if such nominee satisfies the requirements of the position for which he was nominated, certify the said nominee as to his qualifications and then it shall be deemed that said nominee has been duly elected. Nominees~~

~~receiving a majority of the votes in an election shall be considered to have been elected and if more than one position is to be filled in a district or at large, the nominees respectively receiving the largest number of votes shall be deemed to have been elected to fill the vacancies from said districts or areas on the commission~~). Persons qualified to vote for members of the commission shall, except as otherwise provided by law or rule or regulation of the commission, vote only in the district in which their activities make them eligible to vote for a potential member of the commission.

A producer to be eligible to vote in ~~((an election))~~ the advisory vote for a nominee as a producer member of the commission must be a commercial producer of soft tree fruits paying assessments to the commission.

When a legal entity acting as a producer, dealer, or processor is qualified to vote for a candidate in any district or area to serve in a specified position on the commission, such legal entity may cast only one vote for such candidate, regardless of the number of persons comprising such legal entity or stockholders owning stock therein.

Sec. 19. RCW 15.28.070 and 1967 c 191 s 7 are each amended to read as follows:

The commission shall have the authority, subject to the provisions of chapter 34.05 RCW (Administrative Procedure Act), for adopting rules and regulations, after public hearing, establishing one or more subdistricts in any one of the three districts. Such subdistricts shall include a substantial portion of the soft tree fruit producing area in the district in which they are formed.

The commission shall, when a subdistrict has been formed within one of the districts as in this section provided for, assign one of the districts' producer positions on the commission to said subdistrict. Such producer position may only be filled by a producer residing in such subdistrict, whether by ~~((election,))~~ apportionment(;) or appointment.

Sec. 20. RCW 15.28.080 and 1961 c 11 s 15.28.080 are each amended to read as follows:

In the event a position becomes vacant due to resignation, disqualification, death, or for any other reason, such position, until the next annual ~~((election))~~ nominating meeting, shall be filled by vote of the remaining members of the commission. ~~((At such annual election a commissioner shall be elected to fill the balance of the unexpired term.))~~ Following the next annual nomination meeting, the director shall appoint one of the two nominees selected by advisory ballot to fill the balance of the unexpired term.

NEW SECTION. Sec. 21. A new section is added to chapter 15.28 RCW to read as follows:

(1) The commission shall develop and submit to the director for approval any plans, programs, and projects concerning the following:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of the affected commodities; and

(b) The establishment and effectuation of market research projects, market development projects, or both to the end that the marketing and utilization of the affected commodities may be encouraged, expanded, improved, or made more efficient.

(2) The director shall review the commission's advertising or promotion program to ensure that no false claims are being made concerning the affected commodities.

(3) The commission, prior to the beginning of its fiscal year, shall prepare and submit to the director for approval its research plan, its commodity-related education and training plan, and its budget on a fiscal period basis.

(4) The director shall strive to review and make a determination of all submissions described in this section in a timely manner.

NEW SECTION. Sec. 22. A new section is added to chapter 15.28 RCW to read as follows:

The commission exists primarily for the benefit of the people of the state of Washington and its economy. The legislature hereby charges the commission, with oversight by the director, to speak on behalf of Washington state government with regard to its particular commodities.

NEW SECTION. Sec. 23. A new section is added to chapter 15.28 RCW to read as follows:

The costs incurred by the department of agriculture associated with the implementation of section 21 of this act shall be paid for by the commission.

Sec. 24. RCW 15.44.020 and 2002 c 313 s 89 are each amended to read as follows:

The dairy products commission shall be composed of not more than ten members. There shall be one member from each district who shall be a practical producer of dairy products (~~(to be elected by such producers)~~), one member shall be a dealer, and one member shall be a producer who also acts as a dealer (~~(, and such dealer and producer who acts as a dealer shall be appointed by the director of agriculture, and)~~). The director of agriculture shall be ~~((an ex-officio member without vote))~~ a voting member of the commission.

As used in this chapter, "director" means the director of agriculture or his or her authorized representative.

NEW SECTION. Sec. 25. A new section is added to chapter 15.44 RCW to read as follows:

(1) The director shall appoint the members of the commission.

(2) Candidates for producer member positions on the commission shall be nominated under RCW 15.44.033.

(3) The director shall cause an advisory vote to be held for the producer member positions. Advisory ballots shall be mailed to all affected producers in the district where a vacancy is about to occur and shall be returned to the director not less than thirty days prior to the commencement of the term. The advisory ballot shall be conducted in a manner so that it is a secret ballot. The names of the two candidates receiving the most votes in the advisory vote shall be forwarded to the director for potential appointment to the commission. In the event there are only two candidates nominated for a position, an advisory vote may not be held and the candidates' names shall be forwarded to the director for potential appointment. If only one candidate is nominated for a position, the commission shall select a second candidate whose name will be forwarded to the director.

(4) Any candidate whose name is forwarded to the director for potential appointment shall submit to the director a letter stating why he or she wishes to

be appointed to the commission. The director may select either person for the position.

Sec. 26. RCW 15.44.033 and 1995 c 374 s 59 are each amended to read as follows:

Producer members of the commission shall be nominated (~~and elected~~) by producers within the district that such producer members represent in the year in which a commission member's term shall expire. (~~Such producer members receiving the largest number of the votes cast in the respective districts which they represent shall be elected. The election shall be by secret mail ballot and under the supervision of the director.~~)

Nomination for candidates to be (~~elected~~) appointed to the commission shall be conducted by mail by the director. Such nomination forms shall be mailed by the director to each producer in a district 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 producer being nominated and the names of five producers nominating such nominee. The producers nominating such nominee shall affix their signatures to such form and shall further attest that the said nominee meets the qualifications for a producer member to serve on the commission and that he or she will be willing to serve on the commission if (~~elected~~) appointed.

All nominations as provided for herein shall be returned to the director by April 30th, and the director shall not accept any nomination postmarked later than midnight April 30th, nor place the candidate thereon on the advisory election ballot.

Advisory vote ballots for electing (~~members~~) nominees to the commission will be mailed by the director to all eligible producers no later than May 15th, in districts where advisory elections are to be held and such ballots to be valid shall be returned postmarked no later than May 31st of the year mailed, to the director in Olympia.

(~~If only one person is nominated for a position on the commission,~~) The director shall determine whether the (~~person possesses~~) persons nominated possess the qualifications required by statute for the position (~~and, if the director determines that the person possesses such qualifications, the director shall declare that the person has been duly elected~~).

Sec. 27. RCW 15.44.035 and 2002 c 313 s 90 are each amended to read as follows:

(1) The commission shall prior to each advisory election, in sufficient time to satisfy the requirements of RCW 15.44.033, furnish the director with a list of all producers within the district for which the advisory election is being held. The commission shall require each dealer and shipper in addition to the information required under RCW 15.44.110 to furnish the commission with a list of names of producers whose milk they handle.

(2) Any producer may on his or her own motion file his or her name with the commission for the purpose of receiving notice of the advisory election.

(3) It is the responsibility of each producer to ensure that his or her correct address is filed with the commission.

(4) For all purposes of giving notice, holding referenda, and ~~((electing members of))~~ conducting advisory votes for nominees to the commission, the applicable list of producers corrected up to the day preceding the date the list is certified and mailed to the director is deemed to be the list of all producers or handlers, as applicable, entitled to notice or to vote. The list shall be corrected and brought up-to-date in accordance with evidence and information provided to the commission.

NEW SECTION. Sec. 28. A new section is added to chapter 15.44 RCW to read as follows:

To accomplish the transition to a commission structure where the director appoints the commission members, the names of the currently elected commission members shall be forwarded to the director for appointment to the commission within thirty days of the effective date of this act. Thereafter, the director shall appoint commission members pursuant to section 25 of this act as the current commission member terms expire.

NEW SECTION. Sec. 29. A new section is added to chapter 15.44 RCW to read as follows:

(1) The commission shall develop and submit to the director for approval any plans, programs, and projects concerning the following:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising, promotion, and education of the affected commodities; and

(b) The establishment and effectuation of market research projects, market development projects, or both to the end that the marketing and utilization of the affected commodities may be encouraged, expanded, improved, or made more efficient.

(2) The director shall review the commission's advertising or promotion program to ensure that no false claims are being made concerning the affected commodities.

(3) The commission, prior to the beginning of its fiscal year, shall prepare and submit to the director for approval its research plan, its commodity-related education, training and leadership plan, and its budget on a fiscal period basis.

(4) The director shall strive to review and make a determination of all submissions described in this section in a timely manner.

NEW SECTION. Sec. 30. A new section is added to chapter 15.44 RCW to read as follows:

The commission exists primarily for the benefit of the people of the state of Washington and its economy. The legislature hereby charges the commission, with oversight by the director, to speak on behalf of Washington state government with regard to its particular commodities.

NEW SECTION. Sec. 31. A new section is added to chapter 15.44 RCW to read as follows:

The costs incurred by the department of agriculture associated with the implementation of section 29 of this act shall be paid for by the commission.

Sec. 32. RCW 15.44.150 and 2002 c 313 s 102 are each amended to read as follows:

Any action by the commission administrator, member, employee, or agent thereof pertaining to the performance or nonperformance or misperformance of

any matters or things authorized, required, or permitted by this chapter, and any other liabilities, debts, or claims against the commission shall be enforced in the same manner as if the commission were a corporation. No liability for the debts or actions of the commission shall exist against the state of Washington or any subdivision or instrumentality thereof. Liability for the debts or actions of the commission's administrator, member, employee, or agent incurred in their official capacity under this chapter does not exist either against the administrator, members, employees, and agents in their individual capacity or the state of Washington. The administrator, its members, and its agents and employees are not responsible individually in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as principal, agent, person, or employee, except for their own individual acts of dishonesty or crime.

All persons employed or contracting under this chapter shall be limited to, and all salaries, expenses, and liabilities incurred by the commission shall be payable only from the funds collected under this chapter.

Sec. 33. RCW 16.67.040 and 2000 c 146 s 1 are each amended to read as follows:

There is hereby created a Washington state beef commission to be thus known and designated. The commission shall be composed of two beef producers, two dairy (beef) producers, two feeders, one livestock salesyard operator, ~~((and))~~ one meat packer, and the director, who shall be a voting member. If an otherwise voting member is elected as the chair of the commission, the member may, during the member's term as chair of the commission, cast a vote as a member of the commission only to break a tie vote. ~~((In addition there may be one ex officio member without the right to vote from the department of agriculture to be designated by the director thereof and;))~~ If the commission so chooses, there may be one additional nonvoting member in an advisory capacity appointed by the ~~((voting))~~ members of the commission for such a term as the ~~((voting))~~ members may set.

A majority of voting members shall constitute a quorum for the transaction of any business.

All appointed members as stated in RCW 16.67.060 shall be citizens and residents of this state, over the age of twenty-five years, each of whom is and has been actually engaged in that phase of the cattle industry he or she represents for a period of five years, and has during that period derived a substantial portion of his or her income therefrom, or have a substantial investment in cattle as an owner, lessee, partner, or a stockholder owning at least ten percent of the voting stock in a corporation engaged in the production of cattle or dressed beef, or a manager or executive officer of such corporation. Producer members of the commission shall not be directly engaged in the business of being a meat packer, or as a feeder, feeding cattle other than their own. Said qualifications must continue throughout each member's term of office.

NEW SECTION. Sec. 34. A new section is added to chapter 16.67 RCW to read as follows:

(1) The commission shall develop and submit to the director for approval any plans, programs, and projects concerning the following:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of its affected commodities; and

(b) The establishment and effectuation of market research projects, market development projects, or both to the end that the marketing and utilization of its affected commodities may be encouraged, expanded, improved, or made more efficient.

(2) The director shall review the commission's advertising or promotion program to ensure that no false claims are being made concerning its affected commodities.

(3) The commission, prior to the beginning of its fiscal year, shall prepare and submit to the director for approval its research plan, its commodity-related education and training plan, and its budget on a fiscal period basis.

(4) The director shall strive to review and make a determination of all submissions described in this section in a timely manner.

NEW SECTION. Sec. 35. A new section is added to chapter 16.67 RCW to read as follows:

The commission exists primarily for the benefit of the people of the state of Washington and its economy. The legislature hereby charges the commission, with oversight by the director, to speak on behalf of Washington state government with regard to its particular commodities.

NEW SECTION. Sec. 36. A new section is added to chapter 16.67 RCW to read as follows:

The costs incurred by the department associated with the implementation of section 34 of this act shall be paid for by the commission.

NEW SECTION. Sec. 37. RCW 15.65.245 (When director appoints majority of the board—Nominations—Advisory vote—Notice—Director appoints candidate receiving the most votes—Exception) and 2002 c 313 s 25 are each repealed.

Sec. 38. RCW 15.88.030 and 1997 c 321 s 40 are each amended to read as follows:

(1) There is created an agricultural commodity commission to be known and designated as the Washington wine commission. (~~Except as provided in RCW 15.88.100(2);~~) The commission shall be composed of ((eleven)) twelve voting members and one nonvoting member; five voting members shall be growers, five voting members shall be wine producers, one voting member shall be the director, and one voting member shall be a wine distributor licensed under RCW 66.24.200. Of the grower members, at least one shall be a person who does not have over fifty acres of vinifera grapes in production, at least one shall be a person who has over one hundred acres of vinifera grapes in production, and two may be persons who produce and sell their own wine. Of the wine producer members, at least one shall be a person producing not more than twenty-five thousand gallons of wine annually, at least one shall be a person producing over one million gallons of wine annually, and at least two shall be persons who produce wine from their own grapes. In addition, at least one member shall be a wine producer located in western Washington and at least two members shall be wine producers located in eastern Washington.

(2) ~~((In addition to the voting members identified in subsection (1) of this section,))~~ The commission shall have one nonvoting member who is a wine producer in this state whose principal wine or wines are produced from fruit other than vinifera grapes. ~~((The director of agriculture, or the director's designee, shall serve as an ex officio, nonvoting member.))~~

(3) ~~((Except as provided in RCW 15.88.100(2),))~~ Seven voting members of the commission constitute a quorum for the transaction of any business of the commission.

(4) Each voting member of the commission shall be a citizen and resident of this state and over the age of twenty-one years. Each voting member, except the member holding position eleven, must be or must have been engaged in that phase of the grower or wine producer industry that he or she is appointed to represent, and must during his or her term of office derive a substantial portion of income therefrom, or have a substantial investment in the growing of vinifera grapes or the production of wine from vinifera grapes as an owner, lessee, partner, or a stockholder owning at least ten percent of the voting stock in a corporation engaged in the growing of vinifera grapes or wine production from vinifera grapes; or the manager or executive officer of such a corporation. These qualifications apply throughout each member's term of office. This subsection does not apply to the director.

Sec. 39. RCW 15.88.040 and 1988 c 254 s 13 are each amended to read as follows:

The ~~((appointive))~~ appointed voting positions on the commission shall be designated as follows: The wine producers shall be designated positions one, two, three, four, and five; the growers shall be designated positions six, seven, eight, nine, and ten; ~~((and))~~ the wine wholesaler shall be position eleven; and the director shall be position number thirteen. The nonvoting industry member shall be designated position number twelve. The member designated as filling position one shall be a person producing over one million gallons of wine annually. The member designated as position one shall be the sole representative, directly or indirectly, of the producer eligible to hold position one and in no event shall that producer directly or indirectly control more than fifty percent of the votes of the commission.

Except ~~((as provided in RCW 15.88.100(2)))~~ for position thirteen, the regular terms of office shall be three years from the date of appointment and until their successors are appointed. However, the first terms of the members appointed upon July 1, 1987, shall be as follows: Positions one, six, and eleven shall terminate July 1, 1990; positions two, four, seven, and nine shall terminate July 1, 1989; and positions three, five, eight, and ten shall terminate July 1, 1988. The term of the initial nonvoting industry member shall terminate July 1, 1990.

Sec. 40. RCW 15.88.050 and 2002 c 313 s 111 are each amended to read as follows:

(1) The director shall appoint the members of the commission. In making such appointments ~~((of the voting members)),~~ the director shall take into consideration recommendations made by the growers' association and the wine institute as the persons recommended for appointment as members of the commission. In appointing persons to the commission, the director shall seek to

ensure as nearly as possible a balanced representation on the commission which would reflect the composition of the growers and wine producers throughout the state as to number of acres cultivated and amount of wine produced.

(2) The appointment shall be carried out immediately subsequent to July 1, 1987, and members so appointed as set forth in this chapter shall serve for the periods set forth for the original members of the commission under RCW 15.88.040.

(3) In the event a position on the commission becomes vacant due to resignation, disqualification, death, or for any other reason, the unexpired term of the position shall immediately be filled by appointment by the director.

(4) Each member or employee of the commission shall be reimbursed for actual travel expenses incurred in carrying out the provisions of this chapter as defined by the commission in rule. Otherwise if not defined in rule, reimbursement for travel expenses shall be at the rates allowed by RCW 43.03.050 and 43.03.060.

Sec. 4I. RCW 15.88.100 and 1988 c 254 s 14 are each amended to read as follows:

(1) Except as provided in subsection((s)) (2) (~~and (3))~~) of this section, the vote of each of the voting members of the commission shall be weighted as provided by this subsection for the transaction of any of the business of the commission. The total voting strength of the entire voting membership of the commission shall be ~~((eleven))~~ twelve votes. The vote of position one shall be equal to the lesser of the following: ~~((Five))~~ Six and one-half votes; or eleven votes times the percentage of the wine produced in the state that is produced by the person filling position one. The percentage shall be based upon the amount of wine produced in the previous calendar year and shall be rounded to the nearest ten percent. The remaining votes of the membership of the commission shall be divided equally among the remaining members of the commission.

~~(2) ((In the event the assessment described in RCW 66.24.215(1)(b) is not effective on July 1, 1989, the positions designated for growers cease to exist. In such an event, the commission shall be composed of six voting members and two nonvoting members. The nonvoting industry member shall be position seven. Four voting members of the commission constitute a quorum for the modified commission. Of the six votes of the entire voting membership of the modified commission, the vote of position one shall be the lesser of the following: Three votes; or six votes times the percentage of the wine produced in the state that is produced by the person filling position one. The percentage shall be based upon the amount of wine produced in the previous calendar year and shall be rounded to the nearest ten percent. The remaining votes of the membership of the commission shall be divided equally among the remaining members of the commission.~~

~~(3))~~ In the event that the percentage of wine produced by the producer represented by position one falls below twenty-five percent of the wine produced in this state, the weighted voting mechanism provided for in subsection((s)) (1) (~~and (2))~~) of this section shall cease to be effective. In that case, the voting shall be based on one vote per position.

NEW SECTION. Sec. 42. A new section is added to chapter 15.88 RCW to read as follows:

(1) The commission shall develop and submit to the director for approval any plans, programs, and projects concerning the following:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising, promotion, and education of the affected commodities; and

(b) The establishment and effectuation of market research projects, market development projects, or both to the end that the marketing and utilization of the affected commodities may be encouraged, expanded, improved, or made more efficient.

(2) The director shall review the commission's advertising or promotion program to ensure that no false claims are being made concerning the affected commodities.

(3) The commission, prior to the beginning of its fiscal year, shall prepare and submit to the director for approval its research plan, its commodity-related education and training plan, and its budget on a fiscal period basis.

(4) The director shall strive to review and make a determination of all submissions described in this section in a timely manner.

NEW SECTION. Sec. 43. A new section is added to chapter 15.88 RCW to read as follows:

The commission exists primarily for the benefit of the people of the state of Washington and its economy. The legislature hereby charges the commission, with oversight by the director, to speak on behalf of the Washington state government with regard to wine grapes and wine.

Sec. 44. RCW 15.88.180 and 2002 c 313 s 76 are each amended to read as follows:

(1) The director may provide by rule for a method to fund staff support for all commodity boards or commissions in accordance with RCW 43.23.033 if a position is not directly funded by the legislature and costs related to the specific activity undertaken on behalf of an individual commodity board or commission. The commission shall provide funds to the department according to the rules adopted by the director.

(2) The costs incurred by the department associated with the implementation of section 42 of this act shall be paid for by the commission.

NEW SECTION. Sec. 45. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House April 24, 2003.

Passed by the Senate April 17, 2003.

Approved by the Governor May 20, 2003.

Filed in Office of Secretary of State May 20, 2003.

CHAPTER 397

[Engrossed Substitute House Bill 1754]

CHICKENS—SPECIAL PERMIT

AN ACT Relating to poultry; adding a new section to chapter 16.49 RCW; and adding a new section to chapter 69.07 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter I6.49 RCW to read as follows:

(1) This chapter does not apply to the slaughter and preparation of one thousand or fewer pastured chickens in a calendar year by the agricultural producer of the chickens for the sale of whole raw chickens by the producer directly to the ultimate consumer at the producer's farm.

(2) For the purposes of this section, "chicken" means the species *Gallus domesticus*.

NEW SECTION. Sec. 2. A new section is added to chapter 69.07 RCW to read as follows:

(1) A special, temporary permit issued by the department under this section is required for the slaughter and preparation of one thousand or fewer pastured chickens in a calendar year by the agricultural producer of the chickens for the sale of whole raw chickens by the producer directly to the ultimate consumer at the producer's farm, and for such sale. Such activities shall not be conducted without the permit. However, if the activities are conducted under such a permit, the activities are exempted from any other licensing requirements of this chapter.

(2)(a) The department must adopt by rule requirements for a special, temporary permit for the activities described in subsection (1) of this section. The requirements must be generally patterned after those established by WAC 246-215-190 as it exists on the effective date of this section for temporary food service establishments, but must be tailored specifically to these slaughter, preparation, and sale activities. The requirements must include, but are not limited to, those for: Cooling procedures, when applicable; sanitary facilities, equipment, and utensils; clean water; washing and other hygienic practices; and waste and wastewater disposal.

(b) The rules must also identify the length of time such a permit is valid. In determining the length of time, the department must take care to ensure that it is adequate to accommodate the seasonal nature of the permitted activities. In adopting any rule under this section, the department must also carefully consider the economic constraints on the regulated activity.

(3) The department shall conduct such inspections of the activities permitted under this section as are reasonably necessary to ensure compliance with permit requirements.

(4) The fee for a special permit issued under this section is seventy-five dollars.

(5) For the purposes of this section, "chicken" means the species *Gallus domesticus*.

Passed by the House April 22, 2003.

Passed by the Senate April 15, 2003.

Approved by the Governor May 20, 2003.

Filed in Office of Secretary of State May 20, 2003.

CHAPTER 398

[Engrossed Substitute House Bill 1827]

MENINGOCOCCAL IMMUNIZATION INFORMATION

AN ACT Relating to provision of meningococcal immunization information to first-time students by degree-granting postsecondary educational institutions; adding a new section to chapter 70.54 RCW; and providing an effective date.

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

***NEW SECTION. Sec. 1.** A new section is added to chapter 70.54 RCW to read as follows:

(1) Except for community and technical colleges, each degree-granting public or private postsecondary residential campus that provides on-campus or group housing shall provide information on meningococcal disease to each enrolled matriculated first-time student. Community and technical colleges must provide the information only to those students who are offered on-campus or group housing. The information about meningococcal disease shall include:

(a) Symptoms, risks, especially as the risks relate to circumstances of group living arrangements, and treatment; and

(b) Current recommendations from the United States centers for disease control and prevention regarding the receipt of vaccines for meningococcal disease and where the vaccination can be received.

(2) This section shall not be construed to require the department of health or the postsecondary educational institution to provide the vaccination to students.

(3) The department of health shall be consulted regarding the preparation of the information materials provided to the first-time students.

(4) If institutions provide electronic enrollment or registration to first-time students, the information required by this section shall be provided electronically and acknowledged by the student before completion of electronic enrollment or registration.

(5) This section does not create a private right of action.

**Sec. 1 was partially vetoed. See message at end of chapter.*

NEW SECTION. Sec. 2. This act takes effect July 1, 2004.

Passed by the House April 25, 2003.

Passed by the Senate April 25, 2003.

Approved by the Governor May 20, 2003, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 20, 2003.

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

"I am returning herewith, without my approval as to subsection 4, Engrossed Substitute House Bill No. 1827 entitled:

"AN ACT Relating to provision of meningococcal immunization information to first-time students by degree-granting postsecondary educational institutions;"

This bill requires all public and private higher education institutions with student housing on campus to provide information to each new student about meningococcal disease. This requirement is consistent with the Centers for Disease Control recommendations to colleges and public health departments that they provide general information to students about the disease.

However, subsection 4 is unduly prescriptive in directing institutions that offer electronic enrollment to provide the meningococcal disease information to students as part of their electronic enrollment and requiring that students acknowledge receipt of the information in order to complete enrollment.

Many higher education institutions in Washington and across the nation have been providing this information to their students for years, without a mandate that students acknowledge receipt. Our higher education institutions also provide information on other critical public health issues, such as AIDS/HIV and alcohol abuse without a requirement that students acknowledge receipt. Creating a mandatory sign-off from students creates an unnecessary administrative burden on our higher education institutions.

For these reasons, I have vetoed subsection 4 of Engrossed Substitute House Bill No. 1827.

With the exception of subsection 4, Engrossed Substitute House Bill No. 1827 is approved."

CHAPTER 399

[Engrossed Substitute Senate Bill 5713]

ELECTRICAL WORK

AN ACT Relating to electrical work; amending RCW 19.28.006, 18.106.010, 19.28.101, 19.28.141, 19.28.091, 19.28.261, 18.27.090, 18.106.150, 19.28.191, and 18.106.070; adding new sections to chapter 19.28 RCW; creating new sections; providing an expiration date; and declaring an emergency.

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

PART I - DEFINITIONS

Sec. 101. RCW 19.28.006 and 2002 c 249 s 1 are each amended to read as follows:

The definitions in this section apply throughout this subchapter.

(1) "Administrator" means a person designated by an electrical contractor to supervise electrical work and electricians in accordance with the rules adopted under this chapter.

(2) "Basic electrical work" means the work classified in (a) and (b) of this subsection as class A and class B basic electrical work:

(a) "Class A basic electrical work" means the like-in-kind replacement of a: Contactor, relay, timer, starter, circuit board, or similar control component; household appliance; circuit breaker; fuse; residential luminaire; lamp; snap switch; dimmer; receptacle outlet; thermostat; heating element; luminaire ballast with an exact same ballast; ten horsepower or smaller motor; or wiring, appliances, devices, or equipment as specified by rule.

(b) "Class B basic electrical work" means work other than class A basic electrical work that requires minimal electrical circuit modifications and has limited exposure hazards. Class B basic electrical work includes the following:

(i) Extension of not more than one branch electrical circuit limited to one hundred twenty volts and twenty amps each where:

(A) No cover inspection is necessary; and

(B) The extension does not supply more than two outlets;

(ii) Like-in-kind replacement of a single luminaire not exceeding two hundred seventy-seven volts and twenty amps;

(iii) Like-in-kind replacement of a motor larger than ten horsepower;

(iv) The following low voltage systems:

(A) Repair and replacement of devices not exceeding one hundred volt-amperes in Class 2, Class 3, or power limited low voltage systems in one and two-family dwellings;

(B) Repair and replacement of the following devices not exceeding one hundred volt-amperes in Class 2, Class 3, or power limited low voltage systems in other buildings, provided the equipment is not for fire alarm or nurse call systems and is not located in an area classified as hazardous by the national electrical code; or

(v) Wiring, appliances, devices, or equipment as specified by rule.

(3) "Board" means the electrical board under RCW 19.28.311.

~~((3))~~ (4) "Chapter" or "subchapter" means the subchapter, if no chapter number is referenced.

~~((4))~~ (5) "Department" means the department of labor and industries.

~~((5))~~ (6) "Director" means the director of the department or the director's designee.

~~((6))~~ (7) "Electrical construction trade" (includes but is not limited to installing or maintaining electrical wires and equipment that are used for light, heat, or power and installing and maintaining remote control, signaling, power limited, or communication circuits or systems.

~~((7))~~ (8) "Electrical contractor" means a person, firm, partnership, corporation, or other entity that offers to undertake, undertakes, submits a bid for, or does the work of installing or maintaining wires or equipment that convey electrical current.

~~((8))~~ (9) "Equipment" means any equipment or apparatus that directly uses, conducts, insulates, or is operated by electricity but does not mean: Plug-in appliances; or plug-in equipment as determined by the department by rule.

~~((9))~~ (10) "Industrial control panel" means a factory-wired or user-wired assembly of industrial control equipment such as motor controllers, switches, relays, power supplies, computers, cathode ray tubes, transducers, and auxiliary devices. The panel may include disconnect means and motor branch circuit protective devices.

~~((10))~~ (11) "Journeyman electrician" means a person who has been issued a journeyman electrician certificate of competency by the department.

~~((11))~~ (12) "Like-in-kind" means having similar characteristics such as voltage requirements, current draw, and function, and being in the same location.

(13) "Master electrician" means either a master journeyman electrician or master specialty electrician.

~~((12))~~ (14) "Master journeyman electrician" means a person who has been issued a master journeyman electrician certificate of competency by the department and who may be designated by an electrical contractor to supervise electrical work and electricians in accordance with rules adopted under this chapter.

~~((13))~~ (15) "Master specialty electrician" means a person who has been issued a specialty electrician certificate of competency by the department and who may be designated by an electrical contractor to supervise electrical work and electricians in accordance with rules adopted under this chapter.

~~((14))~~ (16) "Specialty electrician" means a person who has been issued a specialty electrician certificate of competency by the department.

Sec. 102. RCW 18.106.010 and 2002 c 82 s 1 are each amended to read as follows:

Unless a different meaning is plainly required by the context, the following words and phrases as hereinafter used in this chapter shall have the following meaning:

- (1) "Advisory board" means the state advisory board of plumbers;
- (2) "Contractor" means any person, corporate or otherwise, who engages in, or offers or advertises to engage in, any work covered by the provisions of this chapter by way of trade or business, or any person, corporate or otherwise, who employs anyone, or offers or advertises to employ anyone, to engage in any work covered by the provisions of this chapter;
- (3) "Department" means the department of labor and industries;
- (4) "Director" means the director of department of labor and industries;
- (5) "Journeyman plumber" means any person who has been issued a certificate of competency by the department of labor and industries as provided in this chapter;
- (6) "Like-in-kind" means having similar characteristics such as plumbing size, type, and function, and being in the same location;
- (7) "Medical gas piping" means oxygen, nitrous oxide, high pressure nitrogen, medical compressed air, and medical vacuum systems;
- ~~((7))~~ (8) "Medical gas piping installer" means a journeyman plumber who has been issued a medical gas piping installer endorsement;
- ~~((8))~~ (9) "Plumbing" means that craft involved in installing, altering, repairing and renovating potable water systems, liquid waste systems, and medical gas piping systems within a building. Installation in a water system of water softening or water treatment equipment is not within the meaning of plumbing as used in this chapter;
- ~~((9))~~ (10) "Specialty plumber" means anyone who has been issued a specialty certificate of competency limited to:
 - (a) Installation, maintenance, and repair of the plumbing of single-family dwellings, duplexes, and apartment buildings that do not exceed three stories; or
 - (b) Maintenance and repair of backflow prevention assemblies.

PART 2 - BASIC ELECTRICAL WORK

Sec. 201. RCW 19.28.101 and 1996 c 241 s 4 are each amended to read as follows:

(1) The director shall cause an inspector to inspect all wiring, appliances, devices, and equipment to which this chapter applies except for basic electrical work as defined in this chapter. The department may not require an electrical work permit for class A basic electrical work unless deficiencies in the installation or repair require inspection. The department may inspect class B basic electrical work on a random basis as specified by the department in rule. Nothing contained in this chapter may be construed as providing any authority for any subdivision of government to adopt by ordinance any provisions contained or provided for in this chapter except those pertaining to cities and towns pursuant to RCW 19.28.010(3).

(2) Upon request, electrical inspections will be made by the department within forty-eight hours, excluding holidays, Saturdays, and Sundays. If, upon

written request, the electrical inspector fails to make an electrical inspection within twenty-four hours, the serving utility may immediately connect electrical power to the installation if the necessary electrical work permit is displayed: PROVIDED, That if the request is for an electrical inspection that relates to a mobile home installation, the applicant shall provide proof of a current building permit issued by the local government agency authorized to issue such permits as a prerequisite for inspection approval or connection of electrical power to the mobile home.

(3) Whenever the installation of any wiring, device, appliance, or equipment is not in accordance with this chapter, or is in such a condition as to be dangerous to life or property, the person, firm, partnership, corporation, or other entity owning, using, or operating it shall be notified by the department and shall within fifteen days, or such further reasonable time as may upon request be granted, make such repairs and changes as are required to remove the danger to life or property and to make it conform to this chapter. The director, through the inspector, is hereby empowered to disconnect or order the discontinuance of electrical service to conductors or equipment that are found to be in a dangerous or unsafe condition and not in accordance with this chapter. Upon making a disconnection the inspector shall attach a notice stating that the conductors have been found dangerous to life or property and are not in accordance with this chapter. It is unlawful for any person to reconnect such defective conductors or equipment without the approval of the department, and until the conductors and equipment have been placed in a safe and secure condition, and in a condition that complies with this chapter.

(4) The director, through the electrical inspector, has the right during reasonable hours to enter into and upon any building or premises in the discharge of his or her official duties for the purpose of making any inspection or test of the installation of new construction or altered electrical wiring, electrical devices, equipment, or material contained in or on the buildings or premises. No electrical wiring or equipment subject to this chapter may be concealed until it has been approved by the inspector making the inspection. At the time of the inspection, electrical wiring or equipment subject to this chapter must be sufficiently accessible to permit the inspector to employ any testing methods that will verify conformance with the national electrical code and any other requirements of this chapter.

(5) Persons, firms, partnerships, corporations, or other entities making electrical installations shall obtain inspection and approval from an authorized representative of the department as required by this chapter before requesting the electric utility to connect to the installations. Electric utilities may connect to the installations if approval is clearly indicated by certification of the electrical work permit required to be affixed to each installation or by equivalent means, except that increased or relocated services may be reconnected immediately at the discretion of the utility before approval if an electrical work permit is displayed. The permits shall be furnished upon payment of the fee to the department.

(6) The director, subject to the recommendations and approval of the board, shall set by rule a schedule of license and electrical work permit fees that will cover the costs of administration and enforcement of this chapter. The rules shall be adopted in accordance with the administrative procedure act, chapter

34.05 RCW. No fee may be charged for plug-in mobile homes, recreational vehicles, or portable appliances.

(7) Nothing in this chapter shall authorize the inspection of any wiring, appliance, device, or equipment, or installations thereof, by any utility or by any person, firm, partnership, corporation, or other entity employed by a utility in connection with the installation, repair, or maintenance of lines, wires, apparatus, or equipment owned by or under the control of the utility. All work covered by the national electric code not exempted by the 1981 edition of the national electric code 90-2(B)(5) shall be inspected by the department.

Sec. 202. RCW 19.28.141 and 2001 c 211 s 9 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, the provisions of RCW 19.28.101 shall not apply:

~~((1))~~ (a) Within the corporate limits of any incorporated city or town which has heretofore adopted and enforced or subsequently adopts and enforces an ordinance requiring an equal, higher or better standard of construction and of materials, devices, appliances and equipment than is required by this chapter.

~~((2))~~ (b) Within the service area of an electricity supply agency owned and operated by a city or town which is supplying electricity and enforcing a standard of construction and materials outside its corporate limits at the time this act takes effect(~~(= PROVIDED, That such)~~). The city, town, or agency shall ~~((hereeforth))~~ enforce by inspection within its service area outside its corporate limits the same standards of construction and of materials, devices, appliances and equipment as ~~((is))~~ are enforced by the department of labor and industries under ~~((the authority of))~~ this chapter(~~(= PROVIDED FURTHER, That)~~). Fees charged ~~((hereeforth))~~ in connection with such enforcement shall not exceed those established in RCW 19.28.101.

~~((3))~~ (c) Within the rights of way of state highways, provided the state department of transportation maintains and enforces an equal, higher or better standard of construction and of materials, devices, appliances and equipment than is required by RCW 19.28.010 through 19.28.141 and 19.28.311 through 19.28.361.

(2) A city, town, or electrical supply agency is permitted, but not required, to enforce the same permitting and inspection standards applicable to basic electrical work as are enforced by the department of labor and industries.

PART 3 - INCIDENTAL ELECTRICAL WORK

Sec. 301. RCW 19.28.091 and 2001 c 211 s 6 are each amended to read as follows:

(1) No license under the provision of this chapter shall be required from any utility or any person, firm, partnership, corporation, or other entity employed by a utility because of work in connection with the installation, repair, or maintenance of lines, wires, apparatus, or equipment owned by or under the control of a utility and used for transmission or distribution of electricity from the source of supply to the point of contact at the premises and/or property to be supplied and service connections and meters and other apparatus or appliances used in the measurement of the consumption of electricity by the customer.

(2) No license under the provisions of this chapter shall be required from any utility because of work in connection with the installation, repair, or maintenance of the following:

(a) Lines, wires, apparatus, or equipment used in the lighting of streets, alleys, ways, or public areas or squares;

(b) Lines, wires, apparatus, or equipment owned by a commercial, industrial, or public institution customer that are an integral part of a transmission or distribution system, either overhead or underground, providing service to such customer and located outside the building or structure: PROVIDED, That a utility does not initiate the sale of services to perform such work;

(c) Lines and wires, together with ancillary apparatus, and equipment, owned by a customer that is an independent power producer who has entered into an agreement for the sale of electricity to a utility and that are used in transmitting electricity from an electrical generating unit located on premises used by such customer to the point of interconnection with the utility's system.

(3) Any person, firm, partnership, corporation, or other entity licensed under RCW 19.28.041 may enter into a contract with a utility for the performance of work under subsection (2) of this section.

(4) No license under the provisions of this chapter shall be required from any person, firm, partnership, corporation, or other entity because of the work of installing and repairing ignition or lighting systems for motor vehicles.

(5) No license under the provisions of this chapter shall be required from any person, firm, partnership, corporation, or other entity because of work in connection with the installation, repair, or maintenance of wires and equipment, and installations thereof, exempted in RCW 19.28.010.

(6) The department may by rule exempt from licensing requirements under this chapter work performed on premanufactured electric power generation equipment assemblies and control gear involving the testing, repair, modification, maintenance, or installation of components internal to the power generation equipment, the control gear, or the transfer switch.

(7) An entity that currently holds a valid specialty or general plumbing contractor's registration under chapter 18.27 RCW may employ a certified plumber, a certified residential plumber, or a plumber trainee meeting the requirements of chapter 18.106 RCW to perform electrical work that is incidentally, directly, and immediately appropriate to the like-in-kind replacement of a household appliance or other small household utilization equipment that requires limited electric power and limited waste and/or water connections. A plumber trainee must be supervised by a certified plumber or a certified residential plumber while performing electrical work. The electrical work is subject to the permitting and inspection requirements of this chapter.

Sec. 302. RCW 19.28.261 and 2001 c 211 s 19 are each amended to read as follows:

(1) Nothing in RCW 19.28.161 through 19.28.271 shall be construed to require that a person obtain a license or a certified electrician in order to do electrical work at his or her residence or farm or place of business or on other property owned by him or her unless the electrical work is on the construction of a new building intended for rent, sale, or lease. However, if the construction is of a new residential building with up to four units intended for rent, sale, or

lease, the owner may receive an exemption from the requirement to obtain a license or use a certified electrician if he or she provides a signed affidavit to the department stating that he or she will be performing the work and will occupy one of the units as his or her principal residence. The owner shall apply to the department for this exemption and may only receive an exemption once every twenty-four months. It is intended that the owner receiving this exemption shall occupy the unit as his or her principal residence for twenty-four months after completion of the units.

(2) Nothing in RCW 19.28.161 through 19.28.271 shall be intended to derogate from or dispense with the requirements of any valid electrical code enacted by a city or town pursuant to RCW 19.28.010(3), except that no code shall require the holder of a certificate of competency to demonstrate any additional proof of competency or obtain any other license or pay any fee in order to engage in the electrical construction trade.

(3) RCW 19.28.161 through 19.28.271 shall not apply to common carriers subject to Part I of the Interstate Commerce Act, nor to their officers and employees.

(4) Nothing in RCW 19.28.161 through 19.28.271 shall be deemed to apply to the installation or maintenance of telephone, telegraph, radio, or television wires and equipment; nor to any electrical utility or its employees in the installation, repair, and maintenance of electrical wiring, circuits, and equipment by or for the utility, or comprising a part of its plants, lines or systems.

(5) The licensing provisions of RCW 19.28.161 through 19.28.271 shall not apply to:

~~((1))~~ (a) Persons making electrical installations on their own property or to regularly employed employees working on the premises of their employer, unless the electrical work is on the construction of a new building intended for rent, sale, or lease;

~~((2))~~ (b) Employees of an employer while the employer is performing utility type work of the nature described in RCW 19.28.091 so long as such employees have registered in the state of Washington with or graduated from a state-approved outside lineman apprenticeship course that is recognized by the department and that qualifies a person to perform such work; ~~((or~~

~~((3))~~ (c) Any work exempted under RCW 19.28.091(6); and

(d) Certified plumbers, certified residential plumbers, or plumber trainees meeting the requirements of chapter 18.106 RCW and performing exempt work under RCW 19.28.091(7).

(6) Nothing in RCW 19.28.161 through 19.28.271 shall be construed to restrict the right of any householder to assist or receive assistance from a friend, neighbor, relative or other person when none of the individuals doing the electrical installation hold themselves out as engaged in the trade or business of electrical installations.

(7) Nothing precludes any person who is exempt from the licensing requirements of this chapter under this section from obtaining a journeyman or specialty certificate of competency if they otherwise meet the requirements of this chapter.

PART 4 - INCIDENTAL PLUMBING WORK

Sec. 401. RCW 18.27.090 and 2001 c 159 s 7 are each amended to read as follows:

The registration provisions of this chapter do not apply to:

(1) An authorized representative of the United States government, the state of Washington, or any incorporated city, town, county, township, irrigation district, reclamation district, or other municipal or political corporation or subdivision of this state;

(2) Officers of a court when they are acting within the scope of their office;

(3) Public utilities operating under the regulations of the utilities and transportation commission in construction, maintenance, or development work incidental to their own business;

(4) Any construction, repair, or operation incidental to the discovering or producing of petroleum or gas, or the drilling, testing, abandoning, or other operation of any petroleum or gas well or any surface or underground mine or mineral deposit when performed by an owner or lessee;

(5) The sale or installation of any finished products, materials, or articles of merchandise that are not actually fabricated into and do not become a permanent fixed part of a structure;

(6) Any construction, alteration, improvement, or repair of personal property performed by the registered or legal owner, or by a mobile/manufactured home retail dealer or manufacturer licensed under chapter 46.70 RCW who shall warranty service and repairs under chapter 46.70 RCW;

(7) Any construction, alteration, improvement, or repair carried on within the limits and boundaries of any site or reservation under the legal jurisdiction of the federal government;

(8) Any person who only furnished materials, supplies, or equipment without fabricating them into, or consuming them in the performance of, the work of the contractor;

(9) Any work or operation on one undertaking or project by one or more contracts, the aggregate contract price of which for labor and materials and all other items is less than five hundred dollars, such work or operations being considered as of a casual, minor, or inconsequential nature. The exemption prescribed in this subsection does not apply in any instance wherein the work or construction is only a part of a larger or major operation, whether undertaken by the same or a different contractor, or in which a division of the operation is made into contracts of amounts less than five hundred dollars for the purpose of evasion of this chapter or otherwise. The exemption prescribed in this subsection does not apply to a person who advertises or puts out any sign or card or other device which might indicate to the public that he or she is a contractor, or that he or she is qualified to engage in the business of contractor;

(10) Any construction or operation incidental to the construction and repair of irrigation and drainage ditches of regularly constituted irrigation districts or reclamation districts; or to farming, dairying, agriculture, viticulture, horticulture, or stock or poultry raising; or to clearing or other work upon land in rural districts for fire prevention purposes; except when any of the above work is performed by a registered contractor;

(11) An owner who contracts for a project with a registered contractor, except that this exemption shall not deprive the owner of the protections of this chapter against registered and unregistered contractors;

(12) Any person working on his or her own property, whether occupied by him or her or not, and any person working on his or her personal residence, whether owned by him or her or not but this exemption shall not apply to any person otherwise covered by this chapter who constructs an improvement on his or her own property with the intention and for the purpose of selling the improved property;

(13) Owners of commercial properties who use their own employees to do maintenance, repair, and alteration work in or upon their own properties;

(14) A licensed architect or civil or professional engineer acting solely in his or her professional capacity, an electrician licensed under the laws of the state of Washington, or a plumber licensed under the laws of the state of Washington or licensed by a political subdivision of the state of Washington while operating within the boundaries of such political subdivision. The exemption provided in this subsection is applicable only when the licensee is operating within the scope of his or her license;

(15) Any person who engages in the activities herein regulated as an employee of a registered contractor with wages as his or her sole compensation or as an employee with wages as his or her sole compensation;

(16) Contractors on highway projects who have been prequalified as required by RCW 47.28.070, with the department of transportation to perform highway construction, reconstruction, or maintenance work;

(17) A mobile/manufactured home dealer or manufacturer who subcontracts the installation, set-up, or repair work to actively registered contractors. This exemption only applies to the installation, set-up, or repair of the mobile/manufactured homes that were manufactured or sold by the mobile/manufactured home dealer or manufacturer;

(18) An entity who holds a valid electrical contractor's license under chapter 19.28 RCW that employs a certified journeyman electrician, a certified residential specialty electrician, or an electrical trainee meeting the requirements of chapter 19.28 RCW to perform plumbing work that is incidentally, directly, and immediately appropriate to the like-in-kind replacement of a household appliance or other small household utilization equipment that requires limited electric power and limited waste and/or water connections. An electrical trainee must be supervised by a certified electrician while performing plumbing work.

Sec. 402. RCW 18.106.150 and 1973 1st ex.s. c 175 s 15 are each amended to read as follows:

(1) Nothing in this chapter shall be construed to require that a person obtain a license or a certified plumber in order to do plumbing work at his or her residence or farm or place of business or on other property owned by him or her. ~~((Any person performing plumbing work on a farm may do so without having))~~

(2) A current certificate of competency or apprentice permit is not required for: ~~((PROVIDED, HOWEVER, That))~~

(a) Persons performing plumbing work on a farm; or

(b) Certified journeyman electricians, certified residential specialty electricians, or electrical trainees working for an electrical contractor and performing exempt work under RCW 18.27.090(18).

(3) Nothing in this chapter shall be intended to derogate from or dispense with the requirements of any valid plumbing code enacted by a political subdivision of the state, except that no code shall require the holder of a certificate of competency to demonstrate any additional proof of competency or obtain any other license or pay any fee in order to engage in the trade of plumbing(~~(: AND PROVIDED FURTHER, That)~~).

(4) This chapter shall not apply to common carriers subject to Part I of the Interstate Commerce Act, nor to their officers and employees(~~(: AND PROVIDED FURTHER, That)~~).

(5) Nothing in this chapter shall be construed to apply to any farm, business, industrial plant, or corporation doing plumbing work on premises it owns or operates(~~(: AND PROVIDED FURTHER, That)~~).

(6) Nothing in this chapter shall be construed to restrict the right of any householder to assist or receive assistance from a friend, neighbor, relative or other person when none of the individuals doing such plumbing hold themselves out as engaged in the trade or business of plumbing.

PART 5 - ELECTRIC APPLIANCE REPAIR

****NEW SECTION. Sec. 501. A new section is added to chapter 19.28 RCW under the subchapter heading "provisions applicable to electrical installations" to read as follows:***

(1) The repair, maintenance, or replacement of an electric appliance, if performed by an employee of a manufacturer-authorized dealer or service company, is exempt from licensing and certification requirements under RCW 19.28.091 and 19.28.161.

(2) A joint legislative task force is created to review licensing and certification requirements under RCW 19.28.091 and 19.28.161 as they pertain to the repair, maintenance, or replacement of an electric appliance, and as they compare to licensing and certification requirements in other states. The task force membership shall consist of: (a) One member from each caucus of the senate commerce and trade committee, appointed by the president of the senate; (b) one member from each caucus of the house of representatives commerce and labor committee, appointed by the speaker of the house of representatives; and (c) representatives of electrical contractors, journey level electrical workers, appliance repair businesses, appliance repair technicians, and residential consumers, appointed jointly by the president of the senate and the speaker of the house of representatives. The department of labor and industries shall cooperate with the task force and provide such technical expertisc as the task force cochairs may reasonably require. The task force shall choose its cochairs from among its membership. The task force shall use legislative facilities and staff from senate committee services and the office of program research. Legislative members of the task force shall be reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members, except those representing an employer or organization, are entitled to be reimbursed in accordance with RCW 43.03.050 and 43.03.060, such reimbursement to be paid jointly by the senate and the house of representatives. The task force shall report its findings and

recommendations for legislation or rule making, if any, to the legislature by December 1, 2003.

(3) For the purposes of this section, "repair, maintenance, or replacement of an electric appliance" means servicing, maintaining, repairing, or replacing household appliances and similar utilization equipment, other than space heating equipment, in a residential occupancy. The appliance or utilization equipment must be self-contained and built to standardized sizes or types. The appliance or utilization equipment must be connected as a single unit to a single source of electrical power limited to a maximum of two hundred fifty volts, sixty amperes, single phase.

(a) "Repair, maintenance, or replacement of an electric appliance" includes the like-in-kind replacement of the appliance or utilization equipment if the same unmodified electrical circuit is used to supply the equipment being replaced. It also includes:

(i) The like-in-kind replacement of electrical components within the appliance or equipment;

(ii) The disconnection and reconnection of low-voltage control and line voltage supply whips not over six feet in length provided there are no modifications to the characteristics of the branch circuit; and

(iii) The installation of an outlet box and outlet at an existing appliance or equipment location when converting the appliance from a permanent electrical connection to a plug and cord connection. Other than the installation of the outlet box and outlet, there can be no modification to the existing branch circuit supplying the appliance or equipment.

(b) "Repair, maintenance, or replacement of an electric appliance" does not include:

(i) The installation, repair, or modification of branch circuits conductors, services, feeders, panelboards, disconnect switches, or raceway/conductor systems interconnecting multiple appliances, equipment, or other electrical components; or

(ii) Any work governed under article(s) 500, 501, 502, 503, 504, 505, 510, 511, 513, 514, 515, or 516 NEC (i.e., classified locations).

(4)(a) For the purposes of this section, "electric appliance" means appliances and utilization equipment including, but not limited to, dishwashers, ovens, water heating equipment, cook tops, ranges, instant hot water dispensers, garbage disposers, vent hoods, warming drawers, and grills.

(b) "Electric appliance" does not include systems and equipment such as office equipment, vehicle repair equipment, commercial kitchen equipment, self-contained hot tubs and spas, grinders, scales, alarm/energy management/similar systems, luminaires, furnaces/heaters/air conditioners/heat pumps, sewage disposal equipment, door/gate/similar equipment, or individual components installed so as to create a system (e.g., pumps, switches, controllers, etc.).

**Sec. 501 was vetoed. See message at end of chapter.*

PART 6 - ELECTRIC EQUIPMENT REPAIR

Sec. 601. RCW 19.28.191 and 2002 c 249 s 5 are each amended to read as follows:

(1) Upon receipt of the application, the department shall review the application and determine whether the applicant is eligible to take an examination for the master journeyman electrician, journeyman electrician, master specialty electrician, or specialty electrician certificate of competency.

(a) Before July 1, 2005, an applicant who possesses a valid journeyman electrician certificate of competency in effect for the previous four years and a valid general administrator's certificate may apply for a master journeyman electrician certificate of competency without examination.

(b) Before July 1, 2005, an applicant who possesses a valid specialty electrician certificate of competency, in the specialty applied for, for the previous two years and a valid specialty administrator's certificate, in the specialty applied for, may apply for a master specialty electrician certificate of competency without examination.

(c) Before December 1, 2003, the following persons may obtain an equipment repair specialty electrician certificate of competency without examination:

(i) A person who has successfully completed an apprenticeship program approved under chapter 49.04 RCW for the machinist trade; and

(ii) A person who provides evidence in a form prescribed by the department affirming that: (A) He or she was employed as of April 1, 2003, by a factory-authorized equipment dealer or service company; and (B) he or she has worked in equipment repair for a minimum of four thousand hours.

(d) To be eligible to take the examination for a master journeyman electrician certificate of competency the applicant must have possessed a valid journeyman electrician certificate of competency for four years.

~~((d))~~ (e) To be eligible to take the examination for a master specialty electrician certificate of competency the applicant must have possessed a valid specialty electrician certificate of competency, in the specialty applied for, for two years.

~~((e))~~ (f) To be eligible to take the examination for a journeyman certificate of competency the applicant must have:

(i) Worked in the electrical construction trade for a minimum of eight thousand hours, of which four thousand hours shall be in industrial or commercial electrical installation under the supervision of a master journeyman electrician or journeyman electrician and not more than a total of four thousand hours in all specialties under the supervision of a master journeyman electrician, journeyman electrician, master specialty electrician working in that electrician's specialty, or specialty electrician working in that electrician's specialty. Specialty electricians with less than a four thousand hour work experience requirement cannot credit the time required to obtain that specialty towards qualifying to become a journeyman electrician; or

(ii) Successfully completed an apprenticeship program approved under chapter 49.04 RCW for the electrical construction trade.

~~((f))~~ (g) To be eligible to take the examination for a specialty electrician certificate of competency the applicant must have:

(i) Worked in the residential (as specified in WAC 296-46A-930(2)(a)), pump and irrigation (as specified in WAC 296-46A-930(2)(b)(i)), sign (as specified in WAC 296-46A-930(2)(c)), limited energy (as specified in WAC 296-46A-930(2)(e)(i)), nonresidential maintenance (as specified in WAC 296-

46A-930(2)(f)(i)), restricted nonresidential maintenance as determined by the department in rule, or other new nonresidential specialties as determined by the department in rule under the supervision of a master journeyman electrician, journeyman electrician, master specialty electrician working in that electrician's specialty, or specialty electrician working in that electrician's specialty for a minimum of four thousand hours; or

(ii) Worked in the appliance repair specialty as determined by the department in rule, the equipment repair specialty as determined by the department in rule, or a specialty other than the designated specialties in ~~((f))~~ (g)(i) of this subsection for a minimum of the initial ninety days, or longer if set by rule by the department. The initial period must be spent under one hundred percent supervision of a master journeyman electrician, journeyman electrician, master specialty electrician working in that electrician's specialty, or specialty electrician working in that electrician's specialty. After this initial period, a person may take the specialty examination. If the person passes the examination, the person may work unsupervised for the balance of the minimum hours required for certification. A person may not be certified as a specialty electrician in the appliance repair specialty or in a specialty other than the designated specialties in ~~((f))~~ (g)(i) of this subsection, however, until the person has worked a minimum of two thousand hours in that specialty, or longer if set by rule by the department; or

(iii) Successfully completed an approved apprenticeship program under chapter 49.04 RCW for the applicant's specialty in the electrical construction trade.

~~((g))~~ (h) Any applicant for a journeyman electrician certificate of competency who has successfully completed a two-year program in the electrical construction trade at public community or technical colleges, or not-for-profit nationally accredited technical or trade schools licensed by the work force training and education coordinating board under chapter 28C.10 RCW may substitute up to two years of the technical or trade school program for two years of work experience under a master journeyman electrician or journeyman electrician. The applicant shall obtain the additional two years of work experience required in industrial or commercial electrical installation prior to the beginning, or after the completion, of the technical school program. Any applicant who has received training in the electrical construction trade in the armed service of the United States may be eligible to apply armed service work experience towards qualification to take the examination for the journeyman electrician certificate of competency.

~~((h))~~ (i) An applicant for a specialty electrician certificate of competency who, after January 1, 2000, has successfully completed a two-year program in the electrical construction trade at a public community or technical college, or a not-for-profit nationally accredited technical or trade school licensed by the work force training and education coordinating board under chapter 28C.10 RCW, may substitute up to one year of the technical or trade school program for one year of work experience under a master journeyman electrician, journeyman electrician, master specialty electrician working in that electrician's specialty, or specialty electrician working in that electrician's specialty. Any applicant who has received training in the electrical construction trade in the armed services of the United States may be eligible to apply armed service work experience

towards qualification to take the examination for an appropriate specialty electrician certificate of competency.

~~((f))~~ (j) The department must determine whether hours of training and experience in the armed services or school program are in the electrical construction trade and appropriate as a substitute for hours of work experience. The department must use the following criteria for evaluating the equivalence of classroom electrical training programs and work in the electrical construction trade:

(i) A two-year electrical training program must consist of three thousand or more hours.

(ii) In a two-year electrical training program, a minimum of two thousand four hundred hours of student/instructor contact time must be technical electrical instruction directly related to the scope of work of the electrical specialty. Student/instructor contact time includes lecture and in-school lab.

(iii) The department may not allow credit for a program that accepts more than one thousand hours transferred from another school's program.

(iv) Electrical specialty training school programs of less than two years will have all of the above student/instructor contact time hours proportionately reduced. Such programs may not apply to more than fifty percent of the work experience required to attain certification.

(v) Electrical training programs of less than two years may not be credited towards qualification for journeyman electrician unless the training program is used to gain qualification for a four thousand hour electrical specialty.

~~((f))~~ (k) No other requirement for eligibility may be imposed.

(2) The department shall establish reasonable rules for the examinations to be given applicants for certificates of competency. In establishing the rules, the department shall consult with the board. Upon determination that the applicant is eligible to take the examination, the department shall so notify the applicant, indicating the time and place for taking the examination.

(3) No noncertified individual may work unsupervised more than one year beyond the date when the trainee would be eligible to test for a certificate of competency if working on a full-time basis after original application for the trainee certificate. For the purposes of this section, full-time basis means two thousand hours.

NEW SECTION. Sec. 602. A new section is added to chapter 19.28 RCW under the subchapter heading "provisions applicable to electrical installations" to read as follows:

(1) The scope of work for the equipment repair specialty involves servicing, maintaining, repairing, or replacing utilization equipment.

(2) "Utilization equipment" means equipment that is: (a) Self-contained on a single skid or frame; (b) factory built to standardized sizes or types; (c) listed or field evaluated by a laboratory or approved by the department under WAC 296-46B-030; and (d) connected as a single unit to a single source of electrical power limited to a maximum of six hundred volts. The equipment may also be connected to a separate single source of electrical control power limited to a maximum of two hundred fifty volts. Utilization equipment does not include devices used for occupant space heating by industrial, commercial, hospital, educational, public, and private commercial buildings, and other end users.

(3) "Servicing, maintaining, repairing, or replacing utilization equipment" includes:

(a) The like-in-kind replacement of the equipment if the same unmodified electrical circuit is used to supply the equipment being replaced;

(b) The like-in-kind replacement or repair of remote control components that are integral to the operation of the equipment;

(c) The like-in-kind replacement or repair of electrical components within the equipment; and

(d) The disconnection, replacement, and reconnection of low-voltage control and line voltage supply whips not over six feet in length provided there are no modifications to the characteristics of the branch circuit.

(4) "Servicing, maintaining, repairing, or replacing utilization equipment" does not include:

(a) The installation, repair, or modification of wiring that interconnects equipment and/or remote components, branch circuit conductors, services, feeders, panelboards, disconnect switches, motor control centers, remote magnetic starters/contactors, or raceway/conductor systems interconnecting multiple equipment or other electrical components;

(b) Any work providing electrical feeds into the power distribution unit or installation of conduits and raceways; or

(c) Any electrical work governed under article(s) 500, 501, 502, 503, 504, 505, 510, 511, 513, 514, 515, or 516 NEC (i.e., classified locations), except for electrical work in sewage pumping stations.

PART 7 - BOILER REPAIR

NEW SECTION. **Sec. 701.** (1) Until July 1, 2004, the department of labor and industries shall cease to administer and enforce licensing requirements under RCW 19.28.091, certification requirements under RCW 19.28.161, and inspection and permitting requirements under RCW 19.28.101, as applied only to maintenance work on the electrical controls of a boiler performed by an employee of a service company.

(2) The electrical board and the board of boiler rules shall jointly evaluate whether electrical licensing, certification, inspection, and permitting requirements should apply to maintenance work on the electrical controls of a boiler performed by an employee of a service company. The electrical board shall report their joint findings and recommendations for legislation or rule making, if any, to the commerce and labor committee of the house of representatives and the commerce and trade committee of the senate by December 1, 2003.

(3) This section expires July 1, 2004.

PART 8 - PLUMBING CONTINUING EDUCATION

Sec. 801. RCW 18.106.070 and 1997 c 326 s 6 are each amended to read as follows:

(1) The department shall issue a certificate of competency to all applicants who have passed the examination and have paid the fee for the certificate. The certificate shall bear the date of issuance, and shall expire on the birthdate of the holder immediately following the date of issuance. The certificate shall be

renewable every other year, upon application, on or before the birthdate of the holder. ~~((A renewal fee shall be assessed for each certificate.))~~ The department shall renew a certificate of competency if the applicant: (a) Pays the renewal fee assessed by the department; and (b) during the past two years has completed sixteen hours of continuing education approved by the department with the advice of the advisory board, including four hours related to electrical safety. If a person fails to renew the certificate by the renewal date, he or she must pay a doubled fee. If the person does not renew the certificate within ninety days of the renewal date, he or she must retake the examination and pay the examination fee.

The journeyman plumber and specialty plumber certificates of competency, the medical gas piping installer endorsement, and the temporary permit provided for in this chapter grant the holder the right to engage in the work of plumbing as a journeyman plumber, specialty plumber, or medical gas piping installer, in accordance with their provisions throughout the state and within any of its political subdivisions on any job or any employment without additional proof of competency or any other license or permit or fee to engage in the work. This section does not preclude employees from adhering to a union security clause in any employment where such a requirement exists.

(2) A person who is indentured in an apprenticeship program approved under chapter 49.04 RCW for the plumbing construction trade or who is learning the plumbing construction trade may work in the plumbing construction trade if supervised by a certified journeyman plumber or a certified specialty plumber in that plumber's specialty. All apprentices and individuals learning the plumbing construction trade shall obtain a plumbing training certificate from the department. The certificate shall authorize the holder to learn the plumbing construction trade while under the direct supervision of a journeyman plumber or a specialty plumber working in his or her specialty. The holder of the plumbing training certificate shall renew the certificate annually. At the time of renewal, the holder shall provide the department with an accurate list of the holder's employers in the plumbing construction industry for the previous year and the number of hours worked for each employer. An annual fee shall be charged for the issuance or renewal of the certificate. The department shall set the fee by rule. The fee shall cover but not exceed the cost of administering and enforcing the trainee certification and supervision requirements of this chapter. Apprentices and individuals learning the plumbing construction trade shall have their plumbing training certificates in their possession at all times that they are performing plumbing work. They shall show their certificates to an authorized representative of the department at the representative's request.

(3) Any person who has been issued a plumbing training certificate under this chapter may work if that person is under supervision. Supervision shall consist of a person being on the same job site and under the control of either a journeyman plumber or an appropriate specialty plumber who has an applicable certificate of competency issued under this chapter. Either a journeyman plumber or an appropriate specialty plumber shall be on the same job site as the noncertified individual for a minimum of seventy-five percent of each working day unless otherwise provided in this chapter. The ratio of noncertified individuals to certified journeymen or specialty plumbers working on a job site shall be: (a) ~~((From July 28, 1985, through June 30, 1988, not more than three~~

~~noncertified plumbers working on any one job site for every certified journeyman or specialty plumber; (b) effective July 1, 1988;))~~ Not more than two noncertified plumbers working on any one job site for every certified specialty plumber or journeyman plumber working as a specialty plumber; and ((e) effective July 1, 1988;)) (b) not more than one noncertified plumber working on any one job site for every certified journeyman plumber working as a journeyman plumber.

An individual who has a current training certificate and who has successfully completed or is currently enrolled in an approved apprenticeship program or in a technical school program in the plumbing construction trade in a school approved by the work force training and education coordinating board, may work without direct on-site supervision during the last six months of meeting the practical experience requirements of this chapter.

(4) An individual who has a current training certificate and who has successfully completed or is currently enrolled in a medical gas piping installer training course approved by the department may work on medical gas piping systems if the individual is under the direct supervision of a certified medical gas piping installer who holds a medical gas piping installer endorsement one hundred percent of a working day on a one-to-one ratio.

(5) The training to become a certified plumber must include not less than sixteen hours of classroom training established by the director with the advice of the advisory board. The classroom training must include, but not be limited to, electrical wiring safety, grounding, bonding, and other related items plumbers need to know to work under RCW 19.28.091.

(6) All persons who are certified plumbers before January 1, 2003, are deemed to have received the classroom training required in subsection (5) of this section.

PART 9 - MISCELLANEOUS

NEW SECTION. Sec. 901. Part headings used in this act are not any part of the law.

NEW SECTION. Sec. 902. Sections 501, 601, and 701 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

Passed by the Senate April 23, 2003.

Passed by the House April 18, 2003.

Approved by the Governor May 20, 2003, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 20, 2003.

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

"I am returning herewith, without my approval as to section 501, Engrossed Substitute Senate Bill No. 5713 entitled:

"AN ACT Relating to electrical work;"

This bill modifies the state electrical and plumbing statutes in a number of significant ways, including reducing the level of government regulation currently borne by both businesses and workers.

Section 501 would have exempted the repair, maintenance, and replacement of electrical appliances in residential settings from electrical licensing and certification requirements.

Licensing and certification are the only means the state has to ensure that well-trained and qualified individuals perform electrical work. Exempting these requirements, coupled with the exemption from inspection and permitting provided in other sections of this bill, would remove all regulatory oversight of electrical appliance replacement and repair work. This poses serious public policy concerns and could expose workers, homeowners, and the general public to hazards related to faulty electrical installations or repair.

Notwithstanding these concerns, I also want to ensure that the current level of regulation is not an unnecessary burden on the electrical appliance industry. Accordingly, after the first year of administering this act, I am directing the Department of Labor and Industries, to evaluate its impact and report its findings to me by December 31, 2004.

For these reasons, I have vetoed section 501 of Engrossed Substitute Senate Bill No. 5713.

With the exception of section 501, Engrossed Substitute Senate Bill No. 5713 is approved."

CHAPTER 400

[Substitute House Bill 2202]

COSMETOLOGY APPRENTICESHIP PROGRAM

AN ACT Relating to cosmetology apprenticeship; amending RCW 18.16.020, 18.16.070, 18.16.090, and 18.16.100; adding a new section to chapter 18.16 RCW; and providing an effective date.

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

NEW SECTION. Sec. 1. A new section is added to chapter 18.16 RCW to read as follows:

A cosmetology apprenticeship pilot program is hereby created.

(1) An advisory committee is created that may consist of representatives from individuals and businesses licensed under chapter 18.16 RCW; cosmetology, barbering, esthetics, and manicuring advisory board members; department of labor and industries; department of licensing; United States department of labor apprenticeship; and other interested parties.

(a) The advisory committee shall meet to review progress of the cosmetology apprenticeship pilot program.

(b) The department of labor and industries apprenticeship council shall coordinate the activities of the advisory committee. The advisory committee shall issue annual reports on the progress of the apprenticeship program to interested parties and shall issue a final report regarding the outcome of the apprenticeship program to be presented to the appropriate committees of the house of representatives and senate by December 31, 2005.

(2) Up to twenty salons approved by the department of labor and industries apprenticeship council may participate in the apprenticeship program. The participating salons shall proportionately represent the geographic diversity of Washington state, including rural and urban areas, and salons located in both eastern and western Washington.

(3) The department of licensing shall adopt rules, including a mandatory requirement that apprentices complete in-classroom theory courses as a part of their training, to provide for the licensure of participants of the apprenticeship program.

(4) The cosmetology apprenticeship pilot program expires July 1, 2006.

Sec. 2. RCW 18.16.020 and 2002 c 111 s 2 are each amended to read as follows:

As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise:

(1) "Apprenticeship program" means an apprenticeship pilot program approved under section 1 of this act for the practice of cosmetology, barbering, esthetics, and manicuring, which expires July 1, 2006.

(2) "Apprentice" means a person engaged in a state-approved apprenticeship program and who may receive a wage or compensation while engaged in the program.

(3) "Department" means the department of licensing.

~~((2))~~ (4) "Board" means the cosmetology, barbering, esthetics, and manicuring advisory board.

~~((3))~~ (5) "Director" means the director of the department of licensing or the director's designee.

~~((4))~~ (6) "The practice of cosmetology" means arranging, dressing, cutting, trimming, styling, shampooing, permanent waving, chemical relaxing, straightening, curling, bleaching, lightening, coloring, waxing, tweezing, shaving, and mustache and beard design of the hair of the face, neck, and scalp; temporary removal of superfluous hair by use of depilatories, waxing, or tweezing; manicuring and pedicuring, limited to cleaning, shaping, polishing, decorating, and caring for and treatment of the cuticles and nails of the hands and feet, excluding the application and removal of sculptured or otherwise artificial nails; esthetics limited to toning the skin of the scalp, stimulating the skin of the body by the use of preparations, tonics, lotions, or creams; and tinting eyelashes and eyebrows.

~~((5))~~ (7) "Cosmetologist" means a person licensed under this chapter to engage in the practice of cosmetology.

~~((6))~~ (8) "The practice of barbering" means the cutting, trimming, arranging, dressing, curling, shampooing, shaving, and mustache and beard design of the hair of the face, neck, and scalp.

~~((7))~~ (9) "Barber" means a person licensed under this chapter to engage in the practice of barbering.

~~((8))~~ (10) "Practice of manicuring" means the cleaning, shaping, polishing, decorating, and caring for and treatment of the cuticles and the nails of the hands or feet, and the application and removal of sculptured or otherwise artificial nails by hand or with mechanical or electrical apparatus or appliances.

~~((9))~~ (11) "Manicurist" means a person licensed under this chapter to engage in the practice of manicuring.

~~((10))~~ (12) "Practice of esthetics" means care of the skin by application and use of preparations, antiseptics, tonics, essential oils, or exfoliants, or by any device or equipment, electrical or otherwise, or by wraps, compresses, cleansing, conditioning, stimulation, pore extraction, or product application and removal; the temporary removal of superfluous hair by means of lotions, creams, mechanical or electrical apparatus, appliance, waxing, tweezing, or depilatories; tinting of eyelashes and eyebrows; and lightening the hair, except the scalp, on another person.

~~((11))~~ (13) "Esthetician" means a person licensed under this chapter to engage in the practice of esthetics.

~~((12))~~ (14) "Instructor-trainee" means a person who is currently licensed in this state as a cosmetologist, barber, manicurist, or esthetician, and is enrolled in an instructor-trainee curriculum in a school licensed under this chapter.

~~((13))~~ (15) "School" means any establishment that offers curriculum of instruction in the practice of cosmetology, barbering, esthetics, manicuring, or instructor-trainee to students and is licensed under this chapter.

~~((14))~~ (16) "Student" means a person sixteen years of age or older who is enrolled in a school licensed under this chapter and receives instruction in any of the curricula of cosmetology, barbering, esthetics, manicuring, or instructor-training with or without tuition, fee, or cost, and who does not receive any wage or commission.

~~((15))~~ (17) "Instructor" means a person who gives instruction in a school in a curriculum in which he or she holds a license under this chapter, has completed at least five hundred hours of instruction in teaching techniques and lesson planning in a school, and has passed a licensing examination approved or administered by the director. An applicant who holds a degree in education from an accredited postsecondary institution shall upon application be licensed as an instructor to give instruction in a school in a curriculum in which he or she holds a license under this chapter. An applicant who holds an instructional credential from an accredited community or technical college and who has passed a licensing examination approved or administered by the director shall upon application be licensed as an instructor to give instruction in a school in a curriculum in which he or she holds a license under this chapter.

~~((16))~~ (18) "Person" means any individual, partnership, professional service corporation, joint stock association, joint venture, or any other entity authorized to do business in this state.

~~((17))~~ (19) "Salon/shop" means any building, structure, or any part thereof, other than a school, where the commercial practice of cosmetology, barbering, esthetics, or manicuring is conducted; provided that any person, except employees of a salon/shop, who operates from a salon/shop is required to meet all salon/shop licensing requirements and may participate in the apprenticeship program when certified by the advisory committee as established by the department of labor and industries apprenticeship council.

~~((18))~~ (20) "Crossover training" means training approved by the director as training hours that may be credited to current licensees for similar training received in another profession licensed under this chapter.

~~((19))~~ (21) "Approved security" means surety bond.

~~((20))~~ (22) "Personal services" means a location licensed under this chapter where the practice of cosmetology, barbering, manicuring, or esthetics is performed for clients in the client's home, office, or other location that is convenient for the client.

~~((21))~~ (23) "Individual license" means a cosmetology, barber, manicurist, esthetician, or instructor license issued under this chapter.

~~((22))~~ (24) "Location license" means a license issued under this chapter for a salon/shop, school, personal services, or mobile unit.

~~((23))~~ (25) "Mobile unit" is a location license under this chapter where the practice of cosmetology, barbering, esthetics, or manicuring is conducted in a mobile structure. Mobile units must conform to the health and safety standards set by rule under this chapter.

~~((24))~~ (26) "Curriculum" means the courses of study taught at a school, set by rule under this chapter, and approved by the department. After consulting with the board, the director may set by rule a percentage of hours in a curriculum, up to a maximum of ten percent, that could include hours a student receives while training in a salon/shop under a contract approved by the department. Each curriculum must include at least the following required hours:

- (a) Cosmetologist, one thousand six hundred hours;
- (b) Barber, one thousand hours;
- (c) Manicurist, six hundred hours;
- (d) Esthetician, six hundred hours;
- (e) Instructor-trainee, five hundred hours.

~~((25))~~ (27) "Student monthly report" means the student record of daily activities and the number of hours completed in each course of a curriculum that is prepared monthly by the school and provided to the student, audited annually by the department, and kept on file by the school for three years.

Sec. 3. RCW 18.16.070 and 1984 c 208 s 4 are each amended to read as follows:

This chapter shall not apply to persons licensed under other laws of this state who are performing services within their authorized scope of practice and shall not be construed to require a license for students enrolled in a school or an apprentice engaged in a state-approved apprenticeship program as defined in RCW 18.16.020.

Sec.4. RCW 18.16.090 and 2002 c 111 s 6 are each amended to read as follows:

Examinations for licensure under this chapter shall be conducted at such times and places as the director determines appropriate. Examinations shall consist of tests designed to reasonably measure the applicant's knowledge of safe and sanitary practices and may also include the applicant's knowledge of this chapter and rules adopted pursuant to this chapter. The director may establish by rule a performance examination in addition to any other examination. The director shall establish by rule the minimum passing score for all examinations and the requirements for reexamination of applicants who fail the examination or examinations. The director may allow an independent person to conduct the examinations at the expense of the applicants.

The director shall take steps to ensure that after completion of the required course or apprenticeship program, applicants may promptly take the examination and receive the results of the examination.

Sec. 5. RCW 18.16.100 and 2002 c 111 s 7 are each amended to read as follows:

(1) Upon completion of an application approved by the department and payment of the proper fee, the director shall issue the appropriate license to any person who:

- (a) Is at least seventeen years of age or older;
- (b)(i) Has completed and graduated from a school licensed under this chapter in a curriculum approved by the director of sixteen hundred hours of training in cosmetology, one thousand hours of training in barbering, six hundred hours of training in manicuring, six hundred hours of training in esthetics, and/or

five hundred hours of training as an instructor-trainee, or has met the requirements in RCW 18.16.020 or 18.16.130; or

(ii) Has successfully completed a state-approved apprenticeship training program; and

(c) Has received a passing grade on the appropriate licensing examination approved or administered by the director.

(2) A person currently licensed under this chapter may qualify for examination and licensure, after the required examination is passed, in another category if he or she has completed the crossover training course.

(3) Upon completion of an application approved by the department, certification of insurance, and payment of the proper fee, the director shall issue a location license to the applicant.

(4) The director may consult with the state board of health and the department of labor and industries in establishing training, apprenticeship, and examination requirements.

NEW SECTION. Sec. 6. This act takes effect September 15, 2003.

Passed by the House April 21, 2003.

Passed by the Senate April 11, 2003.

Approved by the Governor May 20, 2003.

Filed in Office of Secretary of State May 20, 2003.

CHAPTER 401

[Substitute Senate Bill 6054]

INDUSTRIAL WELFARE—PUBLIC EMPLOYERS

AN ACT Relating to clarifying the application of the industrial welfare act to public employers; amending RCW 49.12.005, 49.12.187, 49.12.360, and 49.12.460; creating a new section; and declaring an emergency.

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

NEW SECTION. Sec. 1. The legislature finds that the enactment of chapter 236, Laws of 1988 amended the definition of employer under the industrial welfare act, chapter 49.12 RCW, to ensure that the family care provisions of that act applied to the state and political subdivisions. The legislature further finds that this amendment of the definition of employer may be interpreted as creating an ambiguity as to whether the other provisions of chapter 49.12 RCW have applied to the state and its political subdivisions. The purpose of this act is to make retroactive, remedial, curative, and technical amendments to clarify the intent of chapter 49.12 RCW and chapter 236, Laws of 1988 and resolve any ambiguity. It is the intent of the legislature to establish that, prior to the effective date of this act, chapter 49.12 RCW and the rules adopted thereunder did not apply to the state or its agencies and political subdivisions except as expressly provided for in RCW 49.12.265 through 49.12.295, 49.12.350 through 49.12.370, 49.12.450, and 49.12.460.

Sec. 2. RCW 49.12.005 and 1998 c 334 s 1 are each amended to read as follows:

For the purposes of this chapter:

(1) (~~The term~~) "Department" means the department of labor and industries.

(2) ~~((The term))~~ "Director" means the director of the department of labor and industries, or the director's designated representative.

(3) ~~((The term))~~ (a) Before the effective date of this act, "employer" means any person, firm, corporation, partnership, business trust, legal representative, or other business entity which engages in any business, industry, profession, or activity in this state and employs one or more employees ~~((and))~~ but does not include the state, any state institution, any state agency, political subdivision of the state, or any municipal corporation or quasi-municipal corporation. However, for the purposes of RCW ~~((49.12.270))~~ 49.12.265 through 49.12.295 ((and)), 49.12.350 through 49.12.370, 49.12.450, and 49.12.460 only, "employer" also includes the state, any state institution, any state agency, political subdivisions of the state, and any municipal corporation or quasi-municipal corporation.

(b) On and after the effective date of this act, "employer" means any person, firm, corporation, partnership, business trust, legal representative, or other business entity which engages in any business, industry, profession, or activity in this state and employs one or more employees, and includes the state, any state institution, state agency, political subdivisions of the state, and any municipal corporation or quasi-municipal corporation. However, this chapter and the rules adopted thereunder apply to these public employers only to the extent that this chapter and the rules adopted thereunder do not conflict with: (i) Any state statute or rule; and (ii) respect to political subdivisions of the state and any municipal or quasi-municipal corporation, any local resolution, ordinance, or rule adopted under the authority of the local legislative authority before April 1, 2003.

(4) ~~((The term))~~ "Employee" means an employee who is employed in the business of the employee's employer whether by way of manual labor or otherwise.

(5) ~~((The term))~~ "Conditions of labor" ~~((shall))~~ means and includes the conditions of rest and meal periods for employees including provisions for personal privacy, practices, methods and means by or through which labor or services are performed by employees and includes bona fide physical qualifications in employment, but shall not include conditions of labor otherwise governed by statutes and rules and regulations relating to industrial safety and health administered by the department.

(6) For the purpose of chapter 16, Laws of 1973 2nd ex. sess. a minor is defined to be a person of either sex under the age of eighteen years.

Sec. 3. RCW 49.12.187 and 1973 2nd ex.s. c 16 s 18 are each amended to read as follows:

This chapter shall not be construed to interfere with, impede, or in any way diminish the right of employees to bargain collectively with their employers through representatives of their own choosing concerning wages or standards or conditions of employment.

Employees of public employers may enter into collective bargaining contracts, labor/management agreements, or other mutually agreed to employment agreements that specifically vary from or supersede, in part or in total, rules adopted under this chapter regarding appropriate rest and meal periods.

Sec. 4. RCW 49.12.360 and 1989 1st ex.s. c 11 s 23 are each amended to read as follows:

(1) An employer must grant an adoptive parent or a stepparent, at the time of birth or initial placement for adoption of a child under the age of six, the same leave under the same terms as the employer grants to biological parents. As a term of leave, an employer may restrict leave to those living with the child at the time of birth or initial placement.

(2) An employer must grant the same leave upon the same terms for men as it does for women.

(3) The department shall administer and investigate violations of this section. Notices of infraction, penalties, and appeals shall be administered in the same manner as violations under RCW 49.12.285.

(4) ~~((For purposes of this section, "employer" includes all private and public employers listed in RCW 49.12.005(3)).~~

~~(5))~~ For purposes of this section, "leave" means any leave from employment granted to care for a newborn or a newly adopted child at the time of placement for adoption.

~~((6))~~ (5) Nothing in this section requires an employer to:

(a) Grant leave equivalent to maternity disability leave; or

(b) Establish a leave policy to care for a newborn or newly placed child if no such leave policy is in place for any of its employees.

Sec. 5. RCW 49.12.460 and 2001 c 173 s 1 are each amended to read as follows:

(1) An employer may not discharge from employment or discipline a volunteer fire fighter because of leave taken related to an alarm of fire or an emergency call.

(2)(a) A volunteer fire fighter who believes he or she was discharged or disciplined in violation of this section may file a complaint alleging the violation with the director. The volunteer fire fighter may allege a violation only by filing such a complaint within ninety days of the alleged violation.

(b) Upon receipt of the complaint, the director must cause an investigation to be made as the director deems appropriate and must determine whether this section has been violated. Notice of the director's determination must be sent to the complainant and the employer within ninety days of receipt of the complaint.

(c) If the director determines that this section was violated and the employer fails to reinstate the employee or withdraw the disciplinary action taken against the employee, whichever is applicable, within thirty days of receipt of notice of the director's determination, the volunteer fire fighter may bring an action against the employer alleging a violation of this section and seeking reinstatement or withdrawal of the disciplinary action.

(d) In any action brought under this section, the superior court shall have jurisdiction, for cause shown, to restrain violations under this section and to order reinstatement of the employee or withdrawal of the disciplinary action.

(3) For the purposes of this section:

(a) "Alarm of fire or emergency call" means responding to, working at, or returning from a fire alarm or an emergency call, but not participating in training or other nonemergency activities.

(b) "Employer" means ~~((any person))~~ an employer who had twenty or more full-time equivalent employees in the previous year.

(c) "Reinstatement" means reinstatement with back pay, without loss of seniority or benefits, and with removal of any related adverse material from the employee's personnel file, if a file is maintained by the employer.

(d) "Withdrawal of disciplinary action" means withdrawal of disciplinary action with back pay, without loss of seniority or benefits, and with removal of any related adverse material from the employee's personnel file, if a file is maintained by the employer.

(e) "Volunteer fire fighter" means a fire fighter who:

(i) Is not paid;

(ii) Is not already at his or her place of employment when called to serve as a volunteer, unless the employer agrees to provide such an accommodation; and

(iii) Has been ordered to remain at his or her position by the commanding authority at the scene of the fire.

(4) The legislature declares that the public policies articulated in this section depend on the procedures established in this section and no civil or criminal action may be maintained relying on the public policies articulated in this section without complying with the procedures set forth in this section, and to that end all civil actions and civil causes of action for such injuries and all jurisdiction of the courts of this state over such causes are hereby abolished, except as provided in this section.

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

Passed by the Senate April 25, 2003.

Passed by the House April 24, 2003.

Approved by the Governor May 20, 2003.

Filed in Office of Secretary of State May 20, 2003.

CHAPTER 402

[House Bill 1207]

PUBLIC EMPLOYEES—DEATH BENEFIT

AN ACT Relating to providing a death benefit for certain public employees; adding a new section to chapter 41.40 RCW; adding a new section to chapter 41.32 RCW; adding a new section to chapter 41.35 RCW; and adding a new section to chapter 41.04 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 41.40 RCW under the subchapter heading "provisions applicable to plan 1, plan 2, and plan 3" to read as follows:

(1) A one hundred fifty thousand dollar death benefit shall be paid to the member's estate, or such person or persons, trust or organization as the member has nominated by written designation duly executed and filed with the department. If no such designated person or persons are still living at the time of the member's death, the member's death benefit shall be paid to the member's surviving spouse as if in fact the spouse had been nominated by written designation, or if there is no surviving spouse, then to the member's legal representatives.

(2) The benefit under this section shall be paid only where death occurs as a result of injuries sustained in the course of employment. The determination of eligibility for the benefit shall be made consistent with Title 51 RCW by the department of labor and industries. The department of labor and industries shall notify the department of retirement systems by order under RCW 51.52.050.

NEW SECTION, Sec. 2. A new section is added to chapter 41.32 RCW under the subchapter heading "provisions applicable to plan 1, plan 2, and plan 3" to read as follows:

(1) A one hundred fifty thousand dollar death benefit shall be paid to the member's estate, or such person or persons, trust or organization as the member has nominated by written designation duly executed and filed with the department. If no such designated person or persons are still living at the time of the member's death, the member's death benefit shall be paid to the member's surviving spouse as if in fact the spouse had been nominated by written designation, or if there is no surviving spouse, then to the member's legal representatives.

(2) The benefit under this section shall be paid only where death occurs as a result of injuries sustained in the course of employment. The determination of eligibility for the benefit shall be made consistent with Title 51 RCW by the department of labor and industries. The department of labor and industries shall notify the department of retirement systems by order under RCW 51.52.050.

NEW SECTION, Sec. 3. A new section is added to chapter 41.35 RCW under the subchapter heading "provisions applicable to plan 2 and plan 3" to read as follows:

(1) A one hundred fifty thousand dollar death benefit shall be paid to the member's estate, or such person or persons, trust or organization as the member has nominated by written designation duly executed and filed with the department. If no such designated person or persons are still living at the time of the member's death, the member's death benefit shall be paid to the member's surviving spouse as if in fact the spouse had been nominated by written designation, or if there is no surviving spouse, then to the member's legal representatives.

(2) The benefit under this section shall be paid only where death occurs as a result of injuries sustained in the course of employment. The determination of eligibility for the benefit shall be made consistent with Title 51 RCW by the department of labor and industries. The department of labor and industries shall notify the department of retirement systems by order under RCW 51.52.050.

NEW SECTION, Sec. 4. A new section is added to chapter 41.04 RCW to read as follows:

A one hundred fifty thousand dollar death benefit shall be paid as a sundry claim to the estate of an employee of any state agency, the common school system of the state, or institution of higher education who dies as a result of injuries sustained in the course of employment and is not otherwise provided a death benefit through coverage under their enrolled retirement system under this act. The determination of eligibility for the benefit shall be made consistent with Title 51 RCW by the department of labor and industries. The department of labor and industries shall notify the director of the department of general administration by order under RCW 51.52.050.

Passed by the House February 12, 2003.

Passed by the Senate April 11, 2003.

Approved by the Governor May 20, 2003.

Filed in Office of Secretary of State May 20, 2003.

CHAPTER 403

[Second Substitute House Bill 1003]

INVESTING IN INNOVATION GRANTS

AN ACT Relating to investing in technology and biotechnical research and technology transfer; amending RCW 28B.20.285 and 28B.20.289; reenacting and amending RCW 43.79A.040; and adding a new chapter to Title 70 RCW.

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

NEW SECTION. Sec. 1. It is the intent of the legislature to promote growth in the technology sectors of our state's economy and to particularly focus support on the creation and commercialization of intellectual property in the technology, energy, and telecommunications industries.

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

(1) "Center" means the Washington technology center established under RCW 28B.20.283 through 28B.20.295.

(2) "Board" means the board of directors for the center.

****NEW SECTION. Sec. 3. The investing in innovation account is created in the custody of the state treasurer. Expenditures from the account may be used only for grants awarded by the center and for administering the grant award program. Only the executive director of the Washington technology center or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.***

**Sec. 3 was vetoed. See message at end of chapter.*

NEW SECTION. Sec. 4. (1) The investing in innovation grants program is established.

(2) The center shall periodically make strategic assessments of the types of state investments in research and technology in this state that would likely create jobs and business opportunities and produce the most beneficial long-term improvements to the lives and health of the citizens of the state. The assessments shall be available to the public and shall be used to guide decisions on awarding grants under this chapter.

NEW SECTION. Sec. 5. The board shall:

(1) Develop criteria for the awarding of grants to qualifying universities, institutions, businesses, or individuals;

(2) Make decisions regarding distribution of grant funds and make grant awards; and

(3) In making grant awards, seek to provide a balance between research grant awards and commercialization grant awards.

NEW SECTION. Sec. 6. (1) The board may accept grant proposals and establish a competitive process for the awarding of grants.

(2) The board shall establish a peer review committee to include board members, scientists, engineers, and individuals with specific recognized expertise. The peer review committee shall provide to the board an independent peer review of all proposals determined to be competitive for a grant award that are submitted to the board.

(3) In the awarding of grants, priority shall be given to proposals that leverage additional private and public funding resources.

(4) Up to fifty percent of available funds from the investing in innovation account may be used to support commercialization opportunities for research in Washington state through an organization with commercialization expertise such as the Spokane intercollegiate research and technology institute.

(5) The center may not be a direct recipient of grant awards under this act.

NEW SECTION. Sec. 7. The board shall establish performance benchmarks against which the program will be evaluated. The grants program shall be reviewed periodically by the board. The board shall report annually to the appropriate standing committees of the legislature on grants awarded and as appropriate on program reviews conducted by the board.

NEW SECTION. Sec. 8. (1) The center shall administer the investing in innovation grants program.

(2) Not more than one percent of the available funds from the investing in innovation account may be used for administrative costs of the program.

Sec. 9. RCW 43.79A.040 and 2002 c 322 s 5, 2002 c 204 s 7, and 2002 c 61 s 6 are each reenacted and amended to read as follows:

(1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury.

(2) All income received from investment of the treasurer's trust fund shall be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer shall distribute the earnings credited to the investment income account to the state general fund except under (b) and (c) of this subsection.

(b) The following accounts and funds shall receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The Washington promise scholarship account, the college savings program account, the Washington advanced college tuition payment program account, the agricultural local fund, the American Indian scholarship endowment fund, the basic health plan self-insurance reserve account, the Washington state combined fund drive account, the Washington international exchange scholarship endowment fund, the developmental disabilities endowment trust fund, the energy account, the fair fund, the fruit and vegetable inspection

account, the game farm alternative account, the grain inspection revolving fund, the juvenile accountability incentive account, the rural rehabilitation account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the sulfur dioxide abatement account, ~~((and))~~ the children's trust fund, and the investing in innovation account. However, the earnings to be distributed shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(c) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advanced right of way revolving fund, the advanced environmental mitigation revolving account, the city and county advance right-of-way revolving fund, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

Sec. 10. RCW 28B.20.285 and 1992 c 142 s 3 are each amended to read as follows:

A Washington technology center is created to be a collaborative effort between the state's universities, private industry, and government. The technology center shall be headquartered at the University of Washington. The mission of the technology center shall be to perform and commercialize research on a statewide basis that benefits the intermediate and long-term economic vitality of the state of Washington, and to develop and strengthen university-industry relationships through the conduct of research that is primarily of interest to Washington-based companies or state economic development programs. The technology center shall:

- (1) Perform and/or facilitate research supportive of state science and technology objectives, particularly as they relate to state industries;
- (2) Provide leading edge collaborative research and technology transfer opportunities primarily to state industries;
- (3) Provide substantial opportunities for training undergraduate and graduate students through direct involvement in research and industry interactions;
- (4) Emphasize and develop nonstate support of the technology center's research activities; ~~((and))~~
- (5) Administer the investing in innovation grants program; and
- (6) Provide a forum for effective interaction between the state's technology-based industries and its academic research institutions through promotion of faculty collaboration with industry, particularly within the state.

Sec. 11. RCW 28B.20.289 and 1995 c 399 s 26 are each amended to read as follows:

- (1) The technology center shall be administered by the board of directors of the technology center.
- (2) The board shall consist of the following members: Fourteen members from among individuals who are associated with or employed by technology-based industries and have broad business experience and an understanding of

high technology; eight members from the state's universities with graduate science and engineering programs; the executive director of the Spokane Intercollegiate Research and Technology Institute or his or her designated representative; the provost of the University of Washington or his or her designated representative; the provost of the Washington State University or his or her designated representative; and the director of the department of community, trade, and economic development or his or her designated representative. The term of office for each board member, excluding the executive director of the Spokane Intercollegiate Research and Technology Institute, the provost of the University of Washington, the provost of the Washington State University, and the director of the department of community, trade, and economic development, shall be three years. The executive director of the technology center shall be an ex officio, nonvoting member of the board. The board shall meet at least quarterly. Board members shall be appointed by the governor based on the recommendations of the existing board of the technology center, and the research universities. The governor shall stagger the terms of the first group of appointees to ensure the long term continuity of the board.

(3) The duties of the board include:

(a) Developing the general operating policies for the technology center;

(b) Appointing the executive director of the technology center;

(c) Approving the annual operating budget of the technology center;

(d) Establishing priorities for the selection and funding of research projects that guarantee the greatest potential return on the state's investment;

(e) Approving and allocating funding for research projects conducted by the technology center, based on the recommendations of the advisory committees for each of the research centers;

(f) In cooperation with the department of community, trade, and economic development, developing a biennial work plan and five-year strategic plan for the technology center that are consistent with the statewide technology development and commercialization goals;

(g) Coordinating with the University of Washington, Washington State University, and other participating institutions of higher education in the development of training, research, and development programs to be conducted at the technology center that shall be targeted to meet industrial needs;

(h) Assisting the department of community, trade, and economic development in the department's efforts to develop state science and technology public policies and coordinate publicly funded programs;

(i) Performing the duties required under chapter 70.-- RCW (sections 1 through 8 of this act) relating to the investing in innovation grants program;

(j) Reviewing annual progress reports on funded research projects that are prepared by the advisory committees for each of the research centers;

((+)) (k) Providing an annual report to the governor and the legislature detailing the activities and performance of the technology center; and

((+)) (l) Submitting annually to the department of community, trade, and economic development an updated strategic plan and a statement of performance measured against the mission, roles, and contractual obligations of the technology center.

NEW SECTION. Sec. 12. Sections 1 through 8 of this act constitute a new chapter in Title 70 RCW.

Passed by the House April 22, 2003.

Passed by the Senate April 16, 2003.

Approved by the Governor May 20, 2003, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 20, 2003.

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

"I am returning herewith, without my approval as to section 3, Second Substitute House Bill No. 1003 entitled:

"AN ACT Relating to investing in technology and biotechnical research and technology transfer;"

This bill establishes the Investing in Innovation Grants Program, which will enable the state to make investments in research and technology that will create jobs and business opportunities.

Section 3 of the bill would have created an account to be spent directly by the Washington Technology Center, which is a private non-profit organization, not a state agency. Since the Washington State Constitution provides that only public agencies may spend funds directly from a state account, I have vetoed section 3.

For this reason, I have vetoed section 3 of Second Substitute House Bill No. 1003.

With the exception of section 3, Second Substitute House Bill No. 1003 is approved."

CHAPTER 404

[Substitute House Bill 1059]

TRADE POLICY—LEGISLATIVE COMMITTEE

AN ACT Relating to the creation of a joint legislative oversight committee on trade policy; adding a new chapter to Title 44 RCW; and declaring an emergency.

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

NEW SECTION. Sec. 1. The legislature finds that international trade is an important part of Washington's economy with Washington as the fifth largest exporting state in the nation. The legislature further finds that World Trade Organization agreements and the North American Free Trade Agreement have implications for Washington state laws governing agriculture, services, environmental regulation, and economic subsidies. The legislature further finds that future trade agreements such as the proposed Free Trade Area of the Americas may also impact Washington state. Therefore, it is the intent of the legislature to create a joint legislative oversight committee on trade policy to monitor the impact of these trade agreements on Washington state laws, and to provide a mechanism for legislators and citizens to voice their opinions and concerns about the potential impacts of these trade agreements to state and federal government officials.

***NEW SECTION. Sec. 2.** A joint legislative oversight committee on trade policy is created, to consist of four senators and four representatives from the legislature and three ex officio members. The president of the senate shall appoint the senate members of the committee, and the speaker of the house shall appoint the house members of the committee. No more than two members from

each house may be from the same political party. A list of appointees must be submitted by July 1, 2003, and before the close of each regular session during an even-numbered year. Vacancies on the committee will be filled by appointment and must be filled from the same political party and from the same house as the member whose seat was vacated. *The ex officio members shall be appointed by the speaker of the house and the president of the senate, and include a representative from the department of agriculture, the state trade representative, and a representative from the office of the attorney general.*

*Sec. 2 was partially vetoed. See message at end of chapter.

NEW SECTION. **Sec. 3.** The committee shall appoint its own chair and other officers and make rules for orderly procedure.

NEW SECTION. **Sec. 4.** The committee has the following powers and duties:

(1) At least once a year, hear public testimony on the actual and potential impacts of international trade agreements and negotiations on Washington state and submit an annual report to the state trade representative's office and to the legislature regarding the public testimony;

(2) Maintain active communication with the state trade representative's office, the United States trade representative's office, Washington's congressional delegation, the national conference of state legislatures, and any other bodies the committee deems appropriate regarding ongoing developments in international trade agreements and policy;

(3) Conduct an annual assessment of the impacts of international trade agreements upon Washington law and submit the report to the legislature;

(4) Examine any aspects of international trade, international economic integration, and trade agreements that the members deem appropriate.

NEW SECTION. **Sec. 5.** The committee will receive the necessary staff support from both the senate committee services and the house office of program research.

NEW SECTION. **Sec. 6.** The members of the committee shall serve without additional compensation, but are entitled to receive per diem, mileage, and incidental expense allowances at the rates provided in chapter 44.04 RCW.

NEW SECTION. **Sec. 7.** Sections 1 through 6 of this act constitute a new chapter in Title 44 RCW.

NEW SECTION. **Sec. 8.** Section 2 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House February 14, 2003.

Passed by the Senate April 17, 2003.

Approved by the Governor May 20, 2003, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 20, 2003.

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

"I am returning herewith, without my approval as to the last sentence in section 2, beginning on line 11, Substitute House Bill No. 1059 entitled:

"AN ACT Relating to the creation of a joint legislative oversight committee on trade policy;"

This bill creates a joint legislative oversight committee on trade policy to monitor the impact of trade agreements on Washington state laws, and to provide a mechanism for legislators and others to voice their opinions about the potential impacts of trade agreements.

The last sentence in section 2 would have provided that the speaker of the house and the president of the senate appoint certain ex officio members, including the state trade representative and representatives from the department of agriculture and the office of the attorney general. While executive branch participation in this committee is appreciated, the selection of these appointees should be left to the executive branch.

For this reason, I have vetoed the last sentence in section 2, beginning on line 11, of Substitute House Bill No. 1059.

With the exception of the last sentence in section 2, beginning on line 11, Substitute House Bill No. 1059 is approved."

CHAPTER 405

[Senate Bill 5935]

FIRE SERVICE MOBILIZATION

AN ACT Relating to consolidation of state declared fire mobilization responsibilities within the Washington state patrol; amending RCW 38.54.010, 38.54.020, 38.54.030, and 38.54.050; adding new sections to chapter 43.43 RCW; creating a new section; and recodifying RCW 38.54.010, 38.54.020, 38.54.030, 38.54.040, 38.54.050, and 38.54.900.

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

Sec. 1. RCW 38.54.010 and 1997 c 49 s 8 are each amended to read as follows:

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

~~(1) ("Department" means the military department.~~

~~(2) "The adjutant general" means the adjutant general of the military department.) "Chief" means the chief of the Washington state patrol.~~

~~((3)) (2) "State fire marshal" means the director of fire protection in the Washington state patrol.~~

~~((4)) (3) "Fire chief" includes the chief officer of a statutorily authorized fire agency, or the fire chief's authorized representative. Also included are the department of natural resources fire control chief, and the department of natural resources regional managers.~~

~~((5)) (4) "Jurisdiction" means state, county, city, fire district, or port district fire fighting units, or other units covered by this chapter.~~

~~((6)) (5) "Mobilization" means that fire fighting resources beyond those available through existing agreements will be requested and, when available, sent in response to an emergency or disaster situation that has exceeded the capabilities of available local resources. During a large scale emergency, mobilization includes the redistribution of regional or statewide fire fighting resources to either direct emergency incident assignments or to assignment in communities where fire fighting resources are needed.~~

When mobilization is declared and authorized as provided in this chapter, all fire fighting resources including those of the host fire protection authorities, i.e. incident jurisdiction, shall be deemed as mobilized under this chapter, including those that responded earlier under existing mutual aid or other

agreement. All nonhost fire protection authorities providing fire fighting resources in response to a mobilization declaration shall be eligible for expense reimbursement as provided by this chapter from the time of the mobilization declaration.

This chapter shall not reduce or suspend the authority or responsibility of the department of natural resources under chapter 76.04 RCW.

~~((7))~~ (6) "Mutual aid" means emergency interagency assistance provided without compensation under an agreement between jurisdictions under chapter 39.34 RCW.

Sec. 2. RCW 38.54.020 and 1997 c 49 s 9 are each amended to read as follows:

Because of the possibility of the occurrence of disastrous fires or other disasters of unprecedented size and destructiveness, the need to insure that the state is adequately prepared to respond to such a fire or disaster, the need to establish a mechanism and a procedure to provide for reimbursement to state agencies and local fire fighting agencies that respond to help others in time of need or to a host fire district that experiences expenses beyond the resources of the fire district, and generally to protect the public peace, health, safety, lives, and property of the people of Washington, it is hereby declared necessary to:

(1) Provide the policy and organizational structure for large scale mobilization of fire fighting resources in the state through creation of the Washington state fire services mobilization plan;

(2) Confer upon the ~~((adjutant-general))~~ chief the powers provided herein;

(3) Provide a means for reimbursement to state agencies and local fire jurisdictions that incur expenses when mobilized by the ~~((adjutant-general))~~ chief under the Washington state fire services mobilization plan; and

(4) Provide for reimbursement of the host fire department or fire protection district when it has: (a) Exhausted all of its resources; and (b) invoked its local mutual aid network and exhausted those resources. Upon implementation of state fire mobilization, the host district resources shall become state fire mobilization resources consistent with the fire mobilization plan.

It is the intent of the legislature that mutual aid and other interlocal agreements providing for enhanced emergency response be encouraged as essential to the public peace, safety, health, and welfare, and for the protection of the lives and property of the people of the state of Washington. If possible, mutual aid agreements should be without stated limitations as to resources available, time, or area. Nothing in this chapter shall be construed or interpreted to limit the eligibility of any nonhost fire protection authority for reimbursement of expenses incurred in providing fire fighting resources for mobilization.

Sec. 3. RCW 38.54.030 and 1997 c 49 s 10 are each amended to read as follows:

The state fire protection policy board shall review and make recommendations to the ~~((adjutant-general))~~ chief on the refinement and maintenance of the Washington state fire services mobilization plan, which shall include the procedures to be used during fire and other emergencies for coordinating local, regional, and state fire jurisdiction resources. In carrying out this duty, the fire protection policy board shall consult with and solicit recommendations from representatives of state and local fire and emergency

management organizations, regional fire defense boards, and the department of natural resources. The Washington state fire services mobilization plan shall be consistent with, and made part of, the Washington state comprehensive emergency management plan. The ~~((adjutant-general))~~ chief shall review the fire services mobilization plan as submitted by the fire protection policy board, recommend changes that may be necessary, and approve the fire services mobilization plan for inclusion within the state comprehensive emergency management plan.

It is the responsibility of the ~~((adjutant-general))~~ chief to mobilize jurisdictions under the Washington state fire services mobilization plan. The state fire marshal shall serve as the state fire resources coordinator when the Washington state fire services mobilization plan is mobilized.

Sec. 4. RCW 38.54.050 and 1997 c 49 s 12 are each amended to read as follows:

The ~~((department))~~ Washington state patrol in consultation with the office of financial management and the Washington military department shall develop procedures to facilitate reimbursement to state agencies and jurisdictions from appropriate federal and state funds when state agencies and jurisdictions are mobilized by the ~~((adjutant-general))~~ chief under the Washington state fire services mobilization plan. The ~~((department))~~ Washington state patrol shall ensure that these procedures provide reimbursement to the host district in as timely a manner as possible.

NEW SECTION. Sec. 5. (1) Because of the possibility of a disaster of unprecedented size and destruction, including acts of domestic terrorism and civil unrest, that requires law enforcement response for the protection of persons or property and preservation of the peace, the need exists to ensure that the state is adequately prepared to respond to such an incident. There is a need to (a) establish a mechanism and a procedure to provide for reimbursement to law enforcement agencies that respond to help others in time of need, and to host law enforcement agencies that experience expenses beyond the resources of the agencies; and (b) generally to protect the public safety, peace, health, lives, and property of the people of Washington.

(2) It is hereby declared necessary to:

(a) Provide the policy and organizational structure for large-scale mobilization of law enforcement resources in the state, using the incident command system, through creation of the Washington state law enforcement mobilization plan;

(b) Confer upon the chief of the Washington state patrol the powers provided in this chapter;

(c) Provide a means for reimbursement to law enforcement jurisdictions that incur expenses when mobilized by the chief under the Washington state law enforcement mobilization plan; and

(d) Provide for reimbursement of the host law enforcement agency when it has:

(i) Exhausted all of its resources; and

(ii) Invoked its local mutual aid network and exhausted those resources.

NEW SECTION. Sec. 6. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Agency" means any general purpose law enforcement agency as defined in RCW 10.93.020.

(2) "Board" means the state law enforcement mobilization policy board.

(3) "Chief" means the chief of the Washington state patrol.

(4) "Chief law enforcement officer" means the chief of police or sheriff responsible for law enforcement services in the jurisdiction in which the emergency is occurring.

(5) "General authority Washington peace officer" means a general authority Washington peace officer as defined in RCW 10.93.020.

(6) "Host agency" means the law enforcement agency that requests statewide mobilization under sections 6 through 11 of this act.

(7) "Mobilization" means a redistribution of regional and statewide law enforcement resources in response to an emergency or disaster situation.

(8) "Mutual aid" means emergency interagency assistance provided without compensation pursuant to an agreement under chapter 39.34 RCW.

(9) "Resource coordination" means the effort to locate and arrange for the delivery of resources needed by chief law enforcement officers.

(10) "State law enforcement resource coordinator" means a designated individual or agency selected by the chief to perform the responsibilities of that position.

NEW SECTION. Sec. 7. (1) The state law enforcement mobilization policy board shall be established by the chief and shall have representatives from each of the regions established in section 10 of this act. In carrying out its duty, the board shall consult with and solicit recommendations from representatives of the state and local law enforcement and emergency management organizations, and regional law enforcement mobilization committees.

(2) The board shall establish and make recommendations to the chief on the refinement and maintenance of the Washington state law enforcement mobilization plan, including the procedures to be used during an emergency or disaster response requiring coordination of local, regional, and state law enforcement resources.

(3) The chief shall review the Washington state law enforcement mobilization plan, as submitted by the board, recommend changes as necessary, and may approve the plan. The plan shall be consistent with the Washington state comprehensive emergency management plan. The chief may recommend the plan for inclusion within the state comprehensive emergency management plan established under chapter 38.52 RCW.

NEW SECTION. Sec. 8. (1) Local law enforcement may request mobilization only in response to an emergency or disaster exceeding the capabilities of available local resources and those available through existing mutual aid agreements. Upon finding that the local jurisdiction has exhausted all available resources, it is the responsibility of the chief to determine whether mobilization is the appropriate response to the emergency or disaster and, if so, to mobilize jurisdictions under the Washington state law enforcement mobilization plan.

(2) Upon mobilization, the chief shall appoint a state law enforcement resource coordinator, and an alternate, who shall serve jointly with the chief law

enforcement officer from the host agency to command the mobilization effort consistent with incident command system procedures.

(3) Upon mobilization, all law enforcement resources including those of the host agency and those that responded earlier under an existing mutual aid or other agreement shall be mobilized. Mobilization may include the redistribution of regional or statewide law enforcement resources to either direct emergency incident assignments or to assignments in communities where law enforcement resources are needed.

(4) For the duration of the mobilization:

(a) Host agency resources shall become state law enforcement mobilization resources, under the command of the state law enforcement resource coordinator and the chief law enforcement officer from the host agency, consistent with the state law enforcement mobilization plan and incident command system procedures; and

(b) All law enforcement authorities providing resources in response to a mobilization declaration shall be eligible for expense reimbursement as provided by this chapter.

(5) The chief, in consultation with the regional law enforcement resource coordinator, shall determine when mobilization is no longer required and shall then declare the end to the mobilization.

NEW SECTION. Sec. 9. (1) The state law enforcement resource coordinator, or alternate, shall serve in that capacity for the duration of the mobilization.

(2) The duties of the coordinator are to:

(a) Coordinate the mobilization of law enforcement and other support resources within a region;

(b) Be primarily responsible for the coordination of resources in conjunction with the regional law enforcement mobilization committees, in the case of incidents involving more than one region or when resources from more than one region must be mobilized; and

(c) Advise and consult with the chief regarding what resources are required in response to the emergency or disaster and in regard to when the mobilization should end.

NEW SECTION. Sec. 10. (1) Regions within the state are initially established as follows and may be adjusted as necessary by the state law enforcement policy board, but should remain consistent with the Washington state fire defense regions:

(a) Central region - Grays Harbor, Thurston, Pacific, and Lewis counties;

(b) Lower Columbia region - Kittitas, Yakima, and Klickitat counties;

(c) Mid-Columbia region - Chelan, Douglas, and Grant counties;

(d) Northeast region - Okanogan, Ferry, Stevens, Pend Oreille, Spokane, Adams, and Lincoln counties;

(e) Northwest region - Whatcom, Skagit, Snohomish, San Juan, and Island counties;

(f) Olympic region - Clallam and Jefferson counties;

(g) South Puget Sound region - Kitsap, Mason, King, and Pierce counties;

(h) Southeast region - Benton, Franklin, Walla Walla, Columbia, Whitman, Garfield, and Asotin counties;

(1) Southwest region - Wahkiakum, Cowlitz, Clark, and Skamania counties.

(2) Within each of the regions there is created a regional law enforcement mobilization committee. The committees shall consist of the sheriff of each county in the region, the district commander of the Washington state patrol from the region, a number of police chiefs within the region equivalent to the number of counties within the region plus one, and the director of the counties' emergency management office. The police chief members of each regional committee must include the chiefs of police of each city of ninety-five thousand or more population, and the number of members of the committee shall be increased if necessary to accommodate such chiefs. Members of each regional mobilization committee shall select a chair, who shall have authority to implement the regional plan, and a secretary as officers. Members serving on the regional mobilization committees shall not be eligible for reimbursement for meeting-related expenses from the state.

(3) The regional mobilization committees shall work with the relevant local government entities to facilitate development of intergovernmental agreements if any such agreements are required to implement a regional law enforcement mobilization plan.

(4) Regional mobilization committees shall develop regional law enforcement mobilization plans that include provisions for organized law enforcement agencies to respond across municipal, county, or regional boundaries. Each regional mobilization plan shall be consistent with the incident command system, the Washington state law enforcement mobilization plan, and regional response plans adopted prior to the effective date of this act.

(5) Each regional plan, adopted under subsection (4) of this section shall be approved by the state law enforcement mobilization policy board before implementation.

NEW SECTION. Sec. 11. The state patrol in consultation with the Washington association of sheriffs and police chiefs and the office of financial management shall develop procedures to facilitate reimbursement to jurisdictions from funds appropriated specifically for this purpose when jurisdictions are mobilized under the Washington state law enforcement mobilization plan.

Nothing in this chapter shall be construed or interpreted to limit the eligibility of any nonhost law enforcement authority for reimbursement of expenses incurred in providing law enforcement resources for mobilization.

NEW SECTION. Sec. 12. Sections 6 through 11 of this act are each added to chapter 43.43 RCW.

NEW SECTION. Sec. 13. The following sections shall be recodified as new sections within chapter 43.43 RCW under the subchapter heading "State Fire Service Mobilization":

- (1) RCW 38.54.010 (as amended by this act);
- (2) RCW 38.54.020 (as amended by this act);
- (3) RCW 38.54.030 (as amended by this act);
- (4) RCW 38.54.040;
- (5) RCW 38.54.050 (as amended by this act); and
- (6) RCW 38.54.900.

Passed by the Senate April 23, 2003.

Passed by the House April 14, 2003.

Approved by the Governor May 20, 2003.

Filed in Office of Secretary of State May 20, 2003.

CHAPTER 406

[Substitute House Bill 1675]

CIVIL TRIALS

AN ACT Relating to updating civil trial provisions; amending RCW 4.44.020, 4.44.025, 4.44.070, 4.44.120, 4.44.140, 4.44.150, 4.44.180, 4.44.190, 4.44.210, 4.44.220, 4.44.230, 4.44.240, 4.44.250, 4.44.260, 4.44.280, 4.44.290, 4.44.300, 4.44.310, 4.44.360, 4.44.370, 4.44.380, 4.44.390, 4.44.420, 4.44.440, 4.44.450, 4.44.460, and 4.44.480; and repealing RCW 4.44.400.

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

Sec. 1. RCW 4.44.020 and 1893 c 127 s 35 are each amended to read as follows:

At any time after the issues of fact are completed in any case by the service of complaint and answer or reply when necessary, as herein provided, either party may cause the issues of fact to be brought on for trial, by serving upon the opposite party a notice of trial at least three days before any day provided by rules of court for setting causes for trial, which notice shall give the title of the cause as in the pleadings, and notify the opposite party that the issues in such action will be brought on for trial at the time set by the court; and the party giving such notice of trial shall, at least ~~((three))~~ five days before the day of setting such causes for trial file with the clerk of the court a note of issue containing the title of the action, the names of the attorneys and the date when the last pleading was served; and the clerk shall thereupon enter the cause upon the trial docket according to the date of the issue.

In case an issue of law raised upon the pleadings is desired to be brought on for argument, either party shall, at least ~~((three))~~ five days before the day set apart by the court under its rules for hearing issues of law, serve upon the opposite party a like notice of trial and furnish the clerk of the court with a note of issue as above provided, which note of issue shall specify that the issue to be tried is an issue of law; and the clerk of the court shall thereupon enter such action upon the motion docket of the court.

When a cause has once been placed upon either docket of the court, if not tried or argued at the time for which notice was given, it need not be noticed for a subsequent session or day, but shall remain upon the docket from session to session or from law day to law day until final disposition or stricken off by the court. The party upon whom notice of trial is served may file the note of issue and cause the action to be placed upon the calendar without further notice (~~((on his part))~~).

Sec. 2. RCW 4.44.025 and 1991 c 197 s 1 are each amended to read as follows:

When setting civil cases for trial, unless otherwise provided by statute, upon motion of a party, the court may give priority to cases in which a party is frail and over seventy years of age ~~((or)), a party~~ is afflicted with a terminal illness, or other good cause is shown for an expedited trial date.

Sec. 3. RCW 4.44.070 and Code 1881 s 222 are each amended to read as follows:

In any case tried upon the facts without a jury or with an advisory jury, any party may, when the evidence is closed, submit ((in)) distinct and concise ((propositions the conclusions)) proposed findings of fact ((which he claims to be established, or the)) and conclusions of law ((which he desires to be adjudged, or both)). They may be written and handed to the court, or at the option of the court, oral, and entered in the ((judge's minutes)) record.

Sec. 4. RCW 4.44.120 and 1996 c 40 s 1 are each amended to read as follows:

When the action is called for trial, ((the jurors)) a panel of potential jurors shall be selected at random from the ((jurors)) citizens summoned for jury service who have appeared and have not been excused. A voir dire examination of the panel shall be conducted for the purpose of discovering any basis for challenge for cause and to permit the intelligent exercise of peremptory challenges. Any necessary additions to the panel shall be selected at random from the list of qualified jurors. The jury shall consist of six persons, unless the parties in their written demand for jury demand that the jury be twelve in number or consent to a less number. The parties may consent to a jury less than six in number but not less than three, and such consent shall be entered ((by the clerk on the minutes of the trial)) in the record.

Sec. 5. RCW 4.44.140 and Code 1881 s 208 are each amended to read as follows:

A peremptory challenge is an objection to a juror for which no reason need be given, but upon which the court shall exclude ((him)) the juror.

Sec. 6. RCW 4.44.150 and Code 1881 s 209 are each amended to read as follows:

A challenge for cause is an objection to a juror, and may be either:

- (1) General; that the juror is disqualified from serving in any action; or
- (2) Particular; that ((he)) the juror is disqualified from serving in the action on trial.

Sec. 7. RCW 4.44.180 and Code 1881 s 212 are each amended to read as follows:

A challenge for implied bias may be taken for any or all of the following causes, and not otherwise:

- (1) Consanguinity or affinity within the fourth degree to either party.
- (2) Standing in the relation of guardian and ward, attorney and client, master and servant or landlord and tenant, to ((the adverse)) a party; or being a member of the family of, or a partner in business with, or in the employment for wages, of ((the adverse)) a party, or being surety or bail in the action called for trial, or otherwise, for ((the adverse)) a party.
- (3) Having served as a juror on a previous trial in the same action, or in another action between the same parties for the same cause of action, or in a criminal action by the state against either party, upon substantially the same facts or transaction.
- (4) Interest on the part of the juror in the event of the action, or the principal question involved therein, excepting always, the interest of the juror as a member or citizen of the county or municipal corporation.

Sec. 8. RCW 4.44.190 and Code 1881 s 213 are each amended to read as follows:

A challenge for actual bias may be taken for the cause mentioned in RCW 4.44.170(2). But on the trial of such challenge, although it should appear that the juror challenged has formed or expressed an opinion upon what he or she may have heard or read, such opinion shall not of itself be sufficient to sustain the challenge, but the court must be satisfied, from all the circumstances, that the juror cannot disregard such opinion and try the issue impartially.

Sec. 9. RCW 4.44.210 and Code 1881 s 215 are each amended to read as follows:

The jurors having been examined as to their qualifications, first by the plaintiff and then by the defendant, and passed for cause, the peremptory challenges shall be conducted as follows, to wit:

The plaintiff may challenge one, and then the defendant may challenge one, and so alternately until the peremptory challenges shall be exhausted. ~~((The panel being filled and passed for cause, after said challenge shall have been made by either party;))~~ During this alternating process, if one of the parties declines to exercise a peremptory challenge, then that party may no longer peremptorily challenge any of the jurors in the group for which challenges are then being considered and may only peremptorily challenge any jurors later added to that group. A refusal to challenge by either party in the said order of alternation((;)) shall not ((defeat)) prevent the adverse party ((of his)) from using the full number of challenges((, but such refusal on the part of the plaintiff to exercise his challenge in proper turn, shall conclude him as to the jurors once accepted by him, and if his right be not exhausted, his further challenges shall be confined, in his proper turn, to talesmen only)).

Sec. 10. RCW 4.44.220 and Code 1881 s 216 are each amended to read as follows:

The challenges of either party shall be taken separately in the following order, including in each challenge all the causes of challenge belonging to the same class:

- (1) ~~((For general disqualification))~~ Challenges for cause.
- (2) ~~((For implied bias.~~
- ~~(3) For actual bias.~~
- (4)) Peremptory challenges.

Sec. 11. RCW 4.44.230 and Code 1881 s 217 are each amended to read as follows:

The challenge may be excepted to by the adverse party for insufficiency, and if so, the court shall determine the sufficiency thereof, assuming the facts alleged therein to be true. The challenge may be denied by the adverse party, and if so, the court shall ~~((try the issue and determine the law and the facts))~~ determine the facts and decide the issue.

Sec. 12. RCW 4.44.240 and Code 1881 s 218 are each amended to read as follows:

~~((Upon the trial of a challenge))~~ When facts are determined under RCW 4.44.230, the rules of evidence applicable to testimony offered upon the trial of an ordinary issue of fact shall govern. The juror challenged, or any other person otherwise competent may be examined as a witness by either party. ((If a

~~challenge be determined to be sufficient, or found to be true, as the case may be, it shall be allowed, and the juror to whom it was taken excluded; but if determined or found otherwise, it shall be disallowed;))~~ If the challenge is sustained, the juror shall be dismissed from the case; otherwise, the juror shall be retained.

Sec. 13. RCW 4.44.250 and Code 1881 s 219 are each amended to read as follows:

The challenge, the exception, and the denial may be made orally. The judge ~~((of the court))~~ shall ~~((note))~~ enter the same upon ~~((his minutes, and))~~ the record, along with the substance of the testimony on either side.

Sec. 14. RCW 4.44.260 and Code 1881 s 220 are each amended to read as follows:

~~((As soon as the number of the jury has been completed))~~ When the jury has been selected, an oath or affirmation shall be administered to the jurors, in substance that they and each of them, will well, and truly try, the matter in issue between the plaintiff and defendant, and a true verdict give, according to the law and evidence as given them on the trial.

Sec. 15. RCW 4.44.280 and 1957 c 7 s 5 are each amended to read as follows:

~~((The jurors may be admonished by the court that it is their duty not to converse with any other person, or among themselves, on any subject connected with the trial, or to express any opinion thereon, until the case is finally submitted to them.))~~ The court may admonish the jurors that they must not discuss among themselves any subject connected with the trial until they begin their deliberations. The court may also admonish the jurors that they must not discuss with nonjurors any subject connected with the trial until the jurors have been dismissed from the case.

Sec. 16. RCW 4.44.290 and Code 1881 s 227 are each amended to read as follows:

If after the formation of the jury, and before verdict, a juror becomes ~~((sick so as to be))~~ unable to perform his or her duty, the court may ~~((order him to be discharged))~~ discharge the juror. In that case, unless the parties agree to proceed with the other jurors~~((;))~~: (1) An alternate juror may replace the discharged juror and the jury instructed to start their deliberations anew; (2) a new juror may be sworn and the trial begin anew; or (3) the jury may be discharged and a new jury then or afterwards formed.

Sec. 17. RCW 4.44.300 and Code 1881 s 229 are each amended to read as follows:

~~((After hearing the charge, the jury may either decide in the jury box or retire for deliberation. If they retire))~~ During deliberations, the jury may be allowed to separate unless good cause is shown, on the record, for sequestration of the jury. Unless the members of a deliberating jury are allowed to separate, they must be kept together in a room provided for them, or some other convenient place under the charge of one or more officers, until they agree upon their verdict, or are discharged by the court. The officer shall, to the best of his or her ability, keep the jury ((thus)) separate from other persons~~((, without drink, except water, and without food, except [as] ordered by the court)).~~ ((He must not suffer)) The officer shall not allow any communication to be made to them,

nor make any himself or herself, unless by order of the court, except to ask them if they have agreed upon their verdict, and ~~((he))~~ the officer shall not, before the verdict is rendered, communicate to any person the state of their deliberations or the verdict agreed on.

Sec. 18. RCW 4.44.310 and Code 1881 s 230 are each amended to read as follows:

If, while the jury are kept together, either during the progress of the trial or after their retirement for deliberation, the court orders them to be provided with suitable and sufficient food and lodging, they shall be so provided ~~((by the sheriff,))~~ at the expense of the county.

Sec. 19. RCW 4.44.360 and Code 1881 s 236 are each amended to read as follows:

When the jury have agreed upon their verdict they shall be conducted into court by the officer having them in charge. ~~((Their names shall then be called, and if all do not appear, the rest shall be discharged without giving a verdict.))~~

Sec. 20. RCW 4.44.370 and Code 1881 s 237 are each amended to read as follows:

~~((If the jury appear, they))~~ The jurors shall be asked by the court or the clerk whether they have agreed upon their verdict, and if the ~~((foreman))~~ presiding juror answers in the affirmative, ~~((he shall on being required declare the same))~~ the presiding juror shall submit the verdict to the court.

Sec. 21. RCW 4.44.380 and 1972 ex.s. c 57 s 4 are each amended to read as follows:

In all trials by juries of six in the superior court, except criminal trials, when five of the jurors agree upon a verdict, the verdict so agreed upon shall be signed by the ~~((foreman))~~ presiding juror, and the verdict shall stand as the verdict of the whole jury, and have all the force and effect of a verdict agreed to by six jurors. In cases where the jury is twelve in number, a verdict reached by ten shall have the same force and effect as described above, and the same procedures shall be followed.

Sec. 22. RCW 4.44.390 and 1972 ex.s. c 57 s 6 are each amended to read as follows:

~~((When the verdict is returned into court either party may poll the jury, and if the number of jurors required for verdict answer that it is the verdict said verdict shall stand. In case the number of jurors required for verdict do not answer in the affirmative the jury shall be returned to the jury room for further deliberation.))~~ After the verdict is announced, but before it is filed, the jury may be polled at the request of either party. Each juror may be asked whether the verdict is his or her individual verdict and whether the verdict is the jury's collective verdict. If it appears that the verdict is insufficient because the required number of jurors have not reached agreement, the jurors may be returned to the jury room for further deliberation.

Sec. 23. RCW 4.44.420 and Code 1881 s 241 are each amended to read as follows:

In an action for the recovery of specific personal property, if the property has not been delivered to the plaintiff, or the defendant by his or her answer claims a return thereof, the jury shall assess the value of the property if their

verdict be in favor of the plaintiff, or if they find in favor of the defendant and that ~~((he))~~ the defendant is entitled to a return thereof, they may at the same time assess the damages, if any are claimed in the complaint or answer, which the prevailing party has sustained by reason of the detention or taking and withholding such property.

Sec. 24. RCW 4.44.440 and Code 1881 s 243 are each amended to read as follows:

~~((When a special finding of facts shall be inconsistent with the general verdict, the former shall control the latter, and the court shall give judgment accordingly.))~~ When special findings of fact are inconsistent with the general verdict, the judge may enter judgment consistent with the findings of fact, may return the jurors to the jury room for further deliberations, or may order a new trial.

Sec. 25. RCW 4.44.450 and 1891 c 60 s 3 are each amended to read as follows:

When a verdict is found for the plaintiff in an action for the recovery of money, or for the defendant when a setoff for the recovery of money is established beyond the amount of the plaintiff's claim as established, the jury shall also assess the amount of the recovery; they may also, under the direction of the court, assess the amount of the recovery when the court gives judgment for ~~((the plaintiff))~~ a party on the pleadings.

Sec. 26. RCW 4.44.460 and Code 1881 s 239 are each amended to read as follows:

~~((When the verdict is given and is such as the court may receive, and if no juror disagrees or the jury be not again sent out, the clerk shall file the verdict.))~~ If the court determines that the verdict meets the requirements contained in this chapter and in court rules, the clerk shall file the verdict. The verdict is then complete and the jury shall be discharged from the case. The verdict shall be in writing, and under the direction of the court shall be substantially entered in the ~~((journal))~~ record as of the day's proceedings on which it was given.

Sec. 27. RCW 4.44.480 and Code 1881 s 195 are each amended to read as follows:

When it is admitted by the pleading or examination of a party, that ~~((he has in his possession, or under his control,))~~ the party possesses or has control of any money, or other thing capable of delivery, which being the subject of the litigation, is held by him or her as trustee for another party, or which belongs or is due to another party, the court may order the same to be deposited in court, or delivered to such party, with or without security, subject to the further direction of the court.

NEW SECTION. Sec. 28. RCW 4.44.400 (Correction of informal verdict—Polling jury) and Code 1881 s 238, 1877 p 49 s 242, & 1869 p 58 s 242 are each repealed.

Passed by the House February 28, 2003.

Passed by the Senate April 16, 2003.

Approved by the Governor May 20, 2003.

Filed in Office of Secretary of State May 20, 2003.

CHAPTER 407

[Engrossed Second Substitute Senate Bill 5135]

HIGHER EDUCATION—TUITION FEES

AN ACT Relating to increased tuition fees and fees for excess credits taken at institutions of higher education; adding a new section to chapter 28B.10 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. A new section is added to chapter 28B.10 RCW to read as follows:

(1) Each four-year institution of higher education and the state board for community and technical colleges shall develop policies that ensure undergraduate students enrolled in degree or certificate programs complete their programs in a timely manner in order to make the most efficient use of instructional resources and provide capacity within the institution for additional students.

(2) Policies adopted under this section shall address, but not be limited to, undergraduate students in the following circumstances:

(a) Students who accumulate more than one hundred twenty-five percent of the number of credits required to complete their respective baccalaureate or associate degree or certificate programs;

(b) Students who drop more than twenty-five percent of their course load before the grading period for the quarter or semester, which prevents efficient use of instructional resources; and

(c) Students who remain on academic probation for more than one quarter or semester.

(3) Policies adopted under this section may include assessment by the institution of a surcharge in addition to regular tuition and fees to be paid by a student for continued enrollment.

NEW SECTION. Sec. 2. (1) Each public four-year institution of higher education and the state board for community and technical colleges shall report to the higher education coordinating board by January 30, 2004, on the policies developed under section 1 of this act. The report shall include baseline data on the number and characteristics of students affected by the policies. If the policies were adopted before the effective date of this section, the report shall describe the impact of the policies.

(2) In the report, each four-year institution shall also describe policies developed and actions taken by the institution to eliminate barriers to timely completion of degree programs, including reducing the occasions where students cannot enroll in courses needed for their major due to overenrollment. The state board may select a sample of colleges to describe policies and actions to address course scheduling issues.

(3) The higher education coordinating board shall summarize the reports from the institutions and the state board and make a report to the higher education committees of the legislature by March 1, 2004. The report prepared by the higher education coordinating board shall include recommendations for additional legislative action, including whether increased tuition and fees should be uniformly charged to students as an additional incentive for timely completion of degree and certificate programs.

Passed by the Senate April 23, 2003.

Passed by the House April 17, 2003.
Approved by the Governor May 20, 2003.
Filed in Office of Secretary of State May 20, 2003.

CHAPTER 408

[Substitute Senate Bill 5996]
NCSL—2005 CONFERENCE

AN ACT Relating to hosting the 2005 conference of the national conference of state legislatures and other government conferences; creating new sections; amending RCW 42.52.150; adding a new section to chapter 42.52 RCW; and providing an expiration date.

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

NEW SECTION. Sec. 1. The legislature will host the 2005 annual meeting of the national conference of state legislatures, and finds that the annual meeting will attract millions of dollars in economic benefits to the state. The purpose of this act is to establish a committee to take the lead role in hosting the annual meeting.

NEW SECTION. Sec. 2. (1) For purposes of this section:

(a) "NCSL" means the national conference of state legislatures; and
(b) "Hosting" or "hosting the 2005 NCSL annual meeting" means doing those things necessary to plan, prepare, facilitate, and wind down the 2005 NCSL annual meeting.

(2) There is hereby created a committee to plan and host the 2005 convention of the NCSL in Seattle, to be known as the 2005 NCSL host committee.

(3) The 2005 NCSL host committee account is created in the custody of the state treasurer. All receipts designated for the account from appropriations and from other sources must be deposited into the account. Expenditures from the account may be used only to finance the activities of the 2005 NCSL host committee. Only the cochair of the 2005 NCSL host committee or the cochair's designee may authorize expenditures from the account when authorized to do so by the committee. An appropriation is not required for expenditures from the account.

(4) The 2005 NCSL host committee may:

(a) Authorize the cochair of the committee or the cochair's designee to expend funds from the 2005 NCSL host committee account for the limited purposes of hosting the 2005 NCSL convention;

(b) Accept monetary donations, grants, and in-kind donations. Moneys received under this section must be deposited in the 2005 NCSL host committee account;

(c) Engage in or encourage fund-raising activities including the solicitation of gifts, grants, or donations specifically for the limited purposes of hosting the 2005 NCSL convention; and

(d) Establish subcommittees as the committee deems necessary to accomplish the purposes of hosting the 2005 NCSL annual meeting.

(5) The membership of the committee shall include: (a) Four members of the senate, including the leader of the majority party and another member of the majority party appointed by the majority party leader, and the leader of the minority party and another member of the minority party appointed by the

minority party leader; (b) four members of the house of representatives, including the speaker and another member of the majority party appointed by the speaker, and the leader of the minority party and another member of the minority party appointed by its leader; (c) the lieutenant governor; (d) the secretary of the senate; (e) the chief clerk of the house of representatives; and (f) two former members of the legislature, one from each major political party, appointed by a majority of the members of the committee.

(6) The majority leader of the senate and the speaker of the house of representatives shall serve as cochair of the committee.

(7) The committee shall receive necessary support from the staff and resources of the senate and the house of representatives, and may obtain additional resources by contract.

(8) Legislator members of the committee shall be reimbursed for travel expenses provided in RCW 44.04.120. The lieutenant governor and the citizen members of the committee shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

****NEW SECTION. Sec. 3. A new section is added to chapter 42.52 RCW to read as follows:***

When soliciting gifts, grants, or donations solely to host a government conference, state officers and state employees are presumed not to be in violation of the solicitation and receipt of gift provisions in this chapter.

****Sec. 3 was vetoed. See message at end of chapter.***

****Sec. 4. RCW 42.52.150 and 1998 c 7 s 2 are each amended to read as follows:***

(1) No state officer or state employee may accept gifts, other than those specified in subsections (2) and (5) of this section, with an aggregate value in excess of fifty dollars from a single source in a calendar year or a single gift from multiple sources with a value in excess of fifty dollars. For purposes of this section, "single source" means any person, as defined in RCW 42.52.010, whether acting directly or through any agent or other intermediary, and "single gift" includes any event, item, or group of items used in conjunction with each other or any trip including transportation, lodging, and attendant costs, not excluded from the definition of gift under RCW 42.52.010. The value of gifts given to an officer's or employee's family member or guest shall be attributed to the official or employee for the purpose of determining whether the limit has been exceeded, unless an independent business, family, or social relationship exists between the donor and the family member or guest.

(2) Except as provided in subsection (4) of this section, the following items are presumed not to influence under RCW 42.52.140, and may be accepted without regard to the limit established by subsection (1) of this section:

(a) Unsolicited flowers, plants, and floral arrangements;

(b) Unsolicited advertising or promotional items of nominal value, such as pens and note pads;

(c) Unsolicited tokens or awards of appreciation in the form of a plaque, trophy, desk item, wall memento, or similar item;

(d) Unsolicited items received by a state officer or state employee for the purpose of evaluation or review, if the officer or employee has no personal

beneficial interest in the eventual use or acquisition of the item by the officer's or employee's agency;

(e) Informational material, publications, or subscriptions related to the recipient's performance of official duties;

(f) Food and beverages consumed at hosted receptions where attendance is related to the state officer's or state employee's official duties;

(g) Gifts, grants, conveyances, bequests, and devises of real or personal property, or both, in trust or otherwise accepted and solicited for the purpose of hosting a government conference;

(h) Admission to, and the cost of food and beverages consumed at, events sponsored by or in conjunction with a civic, charitable, governmental, or community organization; and

~~((H))~~ (i) Unsolicited gifts from dignitaries from another state or a foreign country that are intended to be personal in nature.

(3) The presumption in subsection (2) of this section is rebuttable and may be overcome based on the circumstances surrounding the giving and acceptance of the item.

(4) Notwithstanding subsections (2) and (5) of this section, a state officer or state employee of a regulatory agency or of an agency that seeks to acquire goods or services who participates in those regulatory or contractual matters may receive, accept, take, or seek, directly or indirectly, only the following items from a person regulated by the agency or from a person who seeks to provide goods or services to the agency:

(a) Unsolicited advertising or promotional items of nominal value, such as pens and note pads;

(b) Unsolicited tokens or awards of appreciation in the form of a plaque, trophy, desk item, wall memento, or similar item;

(c) Unsolicited items received by a state officer or state employee for the purpose of evaluation or review, if the officer or employee has no personal beneficial interest in the eventual use or acquisition of the item by the officer's or employee's agency;

(d) Informational material, publications, or subscriptions related to the recipient's performance of official duties;

(e) Food and beverages consumed at hosted receptions where attendance is related to the state officer's or state employee's official duties;

(f) Admission to, and the cost of food and beverages consumed at, events sponsored by or in conjunction with a civic, charitable, governmental, or community organization; and

(g) Those items excluded from the definition of gift in RCW 42.52.010 except:

(i) Payments by a governmental or nongovernmental entity of reasonable expenses incurred in connection with a speech, presentation, appearance, or trade mission made in an official capacity;

(ii) Payments for seminars and educational programs sponsored by a bona fide governmental or nonprofit professional, educational, trade, or charitable association or institution; and

(iii) Flowers, plants, and floral arrangements.

(5) A state officer or state employee may accept gifts in the form of food and beverage on infrequent occasions in the ordinary course of meals where

attendance by the officer or employee is related to the performance of official duties. Gifts in the form of food and beverage that exceed fifty dollars on a single occasion shall be reported as provided in chapter 42.17 RCW.

**Sec. 4 was vetoed. See message at end of chapter.*

NEW SECTION. Sec. 5. Sections 1 and 2 of this act expire December 31, 2005.

Passed by the Senate March 16, 2003.

Passed by the House April 11, 2003.

Approved by the Governor May 20, 2003, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 20, 2003.

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

"I am returning herewith, without my approval as to sections 3 and 4, Substitute Senate Bill No. 5996 entitled:

"AN ACT Relating to hosting the 2005 conference of the national conference of state legislatures and other government conferences;"

This bill establishes a host committee for the 2005 annual meeting of the National Conference of State Legislatures (NCSL). It also amends the Ethics Act to allow the solicitation and acceptance of gifts for the purpose of hosting a government conference.

Section 3 would have established a presumption that state officers and employees are not in violation of the Ethics Act when soliciting gifts, grants or donations to host a government conference. Section 4 would have also exempted these gifts from the ordinary fifty-dollar limit. Sections 3 and 4 are too broad and not necessary to accomplish the primary objectives of the bill, which are to establish a host committee for the 2005 NCSL conference and to allow legislators on the committee to solicit contributions in excess of fifty dollars for the conference.

RCW 42.52.010(10)(e) of the Ethics Act specifies that a "gift" does not include "items a state officer or state employee is authorized by law to accept." Because section 2 of this bill authorizes the host committee to engage in fundraising activities, these activities are not considered a gift for purposes of the Ethics Act. Thus, sections 3 and 4 of the bill are not necessary.

Aside from being unnecessary to meet the primary objectives of this bill, sections 3 and 4 are too broad. They exempt fundraising for the hosting of any government conference, without limitation, from existing restrictions on the solicitation of gifts. The potential for abuse of this broad exemption concerns me.

For these reasons, I have vetoed sections 3 and 4 of Substitute Senate Bill No. 5996.

With the exception of sections 3 and 4, Substitute Senate Bill No. 5996 is approved."

CHAPTER 409

[Senate Bill 5705]

DEPARTMENT OF SERVICES FOR THE BLIND

AN ACT Relating to changing provisions on the department of services for the blind; amending RCW 74.18.010, 74.18.020, 74.18.050, 74.18.060, 74.18.070, 74.18.090, 74.18.110, 74.18.120, 74.18.130, 74.18.140, 74.18.150, 74.18.170, 74.18.180, 74.18.200, 74.18.210, and 74.18.230; adding new sections to chapter 74.18 RCW; creating a new section; and repealing RCW 74.18.160 and 74.18.250.

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

NEW SECTION. Sec. 1. The legislature finds and declares the following:

(1) Thousands of citizens in the state have disabilities, including blindness or visual impairment, that prevent them from using conventional print material.

(2) Governmental and nonprofit organizations provide access to reading material by specialized means, including books and magazines prepared in braille, audio, and large-type formats.

(3) Access to time-sensitive or local or regional publications, or both, is not feasible to produce through these traditional means and formats.

(4) Lack of direct and prompt access to information included in newspapers, magazines, newsletters, schedules, announcements, and other time-sensitive materials limits educational opportunities, literacy, and full participation in society by people with print disabilities.

(5) Creation and storage of information by computer results in electronic files used for publishing and distribution.

(6) The use of high-speed computer and telecommunications technology combined with customized software provides a practical and cost-effective means to convert electronic text-based information, including daily newspapers, into synthetic speech suitable for statewide distribution by telephone.

(7) Telephonic distribution of time-sensitive information, including daily newspapers, will enhance the state's current efforts to meet the needs of blind and disabled citizens for access to information which is otherwise available in print, thereby reducing isolation and supporting full integration and equal access for such individuals.

Sec. 2. RCW 74.18.010 and 1983 c 194 s 1 are each amended to read as follows:

The purposes of this chapter are to promote ~~((the economic))~~ employment and ~~((social-welfare))~~ independence of blind persons in the state of Washington ~~((; to relieve blind or visually handicapped persons from the distress of poverty))~~ through their complete integration into society on the basis of equality, and to encourage public acceptance of the abilities of blind persons ~~((; and to promote public awareness of the causes of blindness))~~.

Sec. 3. RCW 74.18.020 and 1983 c 194 s 2 are each amended to read as follows:

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

(1) "Department" means an agency of state government called the department of services for the blind.

(2) "Director" means the director of the ~~((state agency))~~ department of services for the blind. The director is appointed by the governor with the consent of the senate.

(3) ~~(("Advisory council"))~~ "Rehabilitation council for the blind" means the body of members appointed by the governor in accordance with the provisions of RCW 74.18.070 to advise the state agency.

(4) "Blind person" means a person who: (a) Has no vision or whose vision with corrective lenses is so ~~((defective as to prevent the performance of ordinary activities for which eyesight is essential, or who))~~ limited that the individual requires alternative methods or skills to do efficiently those things that are ordinarily done with sight by individuals with normal vision; (b) has an eye condition of a progressive nature which may lead to blindness; or (c) is blind for

purposes of the business enterprise program as set forth in RCW 74.18.200 through 74.18.230 in accordance with requirements of the Randolph-Sheppard Act of 1936.

(5) "Telephonic reading service" means audio information provided by telephone, including the acquisition and distribution of daily newspapers and other information of local, state, or national interest.

NEW SECTION. Sec. 4. A new section is added to chapter 74.18 RCW to read as follows:

(1)(a) The director shall provide access to a telephonic reading service for blind and disabled persons.

(b) The director shall establish criteria for eligibility for blind and disabled persons who may receive the telephonic reading services. The criteria may be based upon the eligibility criteria for persons who receive services established by the national library service for the blind and physically handicapped of the library of congress.

(2) The director may enter into contracts or other agreements that he or she determines to be appropriate to provide telephonic reading services pursuant to this section.

(3) The director may expand the type and scope of materials available on the telephonic reading service in order to meet the local, regional, or foreign language needs of blind or visually impaired residents of this state. The director may also expand the scope of services and availability of telephonic reading services by current methods and technologies that may be developed. The director may inform current and potential patrons of the availability of telephonic reading services through appropriate means, including, but not limited to, direct mailings, direct telephonic contact, and public service announcements.

(4) The director may expend moneys from the business enterprises revolving account accrued from vending machine sales in state and local government buildings, as well as donations and grants, for the purpose of supporting the cost of activities described in this section.

Sec. 5. RCW 74.18.050 and 1983 c 194 s 5 are each amended to read as follows:

The director may appoint such personnel as necessary, none of whom shall be members of the ((advisory)) rehabilitation council for the blind. The director and other personnel who are assigned substantial responsibility for formulating agency policy or directing and controlling a major administrative division, together with their confidential secretaries, up to a maximum of six persons, shall be exempt from the provisions of chapter 41.06 RCW.

Sec. 6. RCW 74.18.060 and 1983 c 194 s 6 are each amended to read as follows:

The department shall:

(1) Serve as the sole agency of the state for contracting for and disbursing all federal and state funds appropriated for programs established by and within the jurisdiction of this chapter, and make reports and render accounting as may be required;

(2) Adopt rules, in accordance with chapter 34.05 RCW, necessary to carry out the purposes of this chapter;

(3) Negotiate agreements with other state agencies to provide services (~~for individuals who are both blind and otherwise disabled~~) so that (~~multiply handicapped persons and the elderly blind~~) individuals of any age who are blind or are both blind and otherwise disabled receive the most beneficial services.

Sec. 7. RCW 74.18.070 and 2000 c 57 s 1 are each amended to read as follows:

(1) There is hereby created the rehabilitation council for the blind. The rehabilitation council shall consist of the minimum number of voting members to meet the requirements of the rehabilitation council required under the federal rehabilitation act of 1973 as now or hereafter amended. A majority of the voting members shall be blind persons. Rehabilitation council members shall be residents of the state of Washington, and shall (~~represent~~) be appointed in accordance with the categories of membership specified in the federal rehabilitation act of 1973 as now or hereafter amended. The director of the department (~~of services for the blind~~) shall be an ex officio, nonvoting member.

(2) The governor shall appoint members of the rehabilitation council for terms of three years, except that the initial appointments shall be as follows: (a) Three members for terms of three years; (b) two members for terms of two years; and (c) other members for terms of one year. Vacancies in the membership of the rehabilitation council shall be filled by the governor for the remainder of the unexpired term.

(3) The governor may remove members of the rehabilitation council for cause.

Sec. 8. RCW 74.18.090 and 2000 c 57 s 3 are each amended to read as follows:

The rehabilitation council for the blind may:

(1) Provide counsel to the director in developing, reviewing, making recommendations, and agreeing on the department's state plan for vocational rehabilitation, budget requests, permanent rules concerning services to blind (~~citizens~~) persons, and other major policies which impact the quality or quantity of services for (~~the~~) blind persons;

(2) Undertake annual reviews with the director of the needs of blind (~~citizens~~) persons, the effectiveness of the services and priorities of the department to meet those needs, and the measures that could be taken to improve the department's services;

(3) Annually make recommendations to the governor and the legislature on issues related to the department (~~of services for the blind~~), other state agencies, or state laws which have a significant effect on the opportunities, services, or rights of blind (~~citizens~~) persons;

(4) Advise and make recommendations to the governor on the criteria and qualifications pertinent to the selection of the director;

(5) Perform additional functions as required by the federal rehabilitation act of 1973 as now or hereafter amended.

Sec. 9. RCW 74.18.110 and 1983 c 194 s 11 are each amended to read as follows:

The department (~~of services for the blind~~) may receive, accept, and disburse gifts, grants, conveyances, devises, and bequests from public or private sources, in trust or otherwise, if the terms and conditions thereof will provide

services for ~~((the))~~ blind persons in a manner consistent with the purposes of this chapter and with other provisions of law. Any money so received shall be deposited in the state treasury for investment or expenditure in accordance with the conditions of its receipt.

Sec. 10. RCW 74.18.120 and 1989 c 175 s 150 are each amended to read as follows:

~~(1) ((Any person aggrieved by a decision, action, or inaction of the department or its agents may request, and shall receive from the department, an administrative review and redetermination of that decision, action, or inaction.~~

~~(2) After completion of an administrative review,))~~ An applicant or ((client aggrieved by)) eligible person who is dissatisfied with a decision, action, or inaction ((of)) made by the department or its agents ((may request, and shall be granted,)) regarding that person's eligibility or department services provided to that person is entitled to an administrative hearing. Such administrative hearings shall be conducted pursuant to chapter 34.05 RCW by an administrative law judge.

~~((3))~~ (2) The applicant or eligible individual may appeal final decisions ((of)) issued following administrative hearings ((shall be the subject of appeal)) under RCW 34.05.510 through 34.05.598.

~~((4) In the event of an appeal from the final decision of an administrative hearing in which the department has overruled the proposed decision by an administrative law judge, the following terms shall apply for an appeal under RCW 34.05.510 through 34.05.598: (a) Upon request a copy of the transcript and evidence from the administrative hearing shall be made available without charge to the appellant; (b) the appellant shall not be required to post bond or pay any filing fee; and (c) an appellant receiving a favorable decision upon appeal shall be entitled to reasonable attorney's fees and costs.))~~

(3) The department shall develop rules governing other processes for dispute resolution as required under the federal rehabilitation act of 1973.

NEW SECTION. Sec. 11. A new section is added to chapter 74.18 RCW to read as follows:

(1) The department shall investigate the conviction records, pending charges, and disciplinary board final decisions of individuals acting on behalf of the department who will or may have unsupervised access to persons with significant disabilities as defined by the federal rehabilitation act of 1973. This includes:

- (a) Current employees of the department;
- (b) Applicants seeking or being considered for any position with the department; and
- (c) Any service provider, contractor, student intern, volunteer, or other individual acting on behalf of the department.

(2) The investigation shall consist of a background check as allowed through the Washington state criminal records privacy act under RCW 10.97.050, the Washington state patrol criminal identification system under RCW 43.43.832 through 43.43.834, and the federal bureau of investigation. The background check shall include a fingerprint check using a complete Washington state criminal identification fingerprint card. If the applicant or

service provider has had a background check within the previous two years, the department may waive the requirement.

(3) When necessary, applicants may be employed and service providers may be engaged on a conditional basis pending completion of the background check.

(4) The department shall use the information solely to determine the character, suitability, and competence of employees, applicants, service providers, contractors, student interns, volunteers, and other individuals in accordance with RCW 41.06.475.

(5) The department shall adopt rules addressing procedures for undertaking background checks which shall include, but not be limited to, the following:

(a) The manner in which the individual will be provided access to and review of information obtained based on the background check required;

(b) Assurance that access to background check information shall be limited to only those individuals processing the information at the department;

(c) Action that shall be taken against a current employee, service provider, contractor, student intern, or volunteer who is disqualified from a position because of a background check not previously performed.

(6) The department shall determine who will pay costs associated with the background check.

NEW SECTION. Sec. 12. A new section is added to chapter 74.18 RCW to read as follows:

(1) Personal information and records obtained and retained by the department concerning applicants and eligible individuals are confidential, are not subject to public disclosure, and may be released only in accordance with law or with this provision.

(2) The department shall adopt rules and develop contract language to safeguard the confidentiality of all personal information, including photographs and lists of names. Rules and contract language shall ensure that:

(a) Specific safeguards are established to protect all current and future stored personal information;

(b) Specific safeguards and procedures are established for the release of personal health information in accordance with the health insurance portability and accountability act of 1996, 45 C.F.R. 160 through 45 C.F.R. 164;

(c) All applicants and eligible individuals and, as appropriate, those individuals' representatives, service providers, cooperating agencies, and interested persons are informed upon initial intake of the confidentiality of personal information and the conditions for accessing and releasing this information;

(d) All applicants or their representatives are informed about the department's need to collect personal information and the policies governing its use, including: (i) identification of the authority under which information is collected; (ii) explanation of the principal purposes for which the department intends to use or release the information; (iii) explanation of whether providing requested information to the department is mandatory or voluntary and the effects of not providing requested information; (iv) identification of those situations in which the department requires or does not require informed written consent of the individual before information may be released; and (v) identification of other agencies to which information is routinely released; and

(e) An explanation of department policies and procedures affecting personal information will be provided at intake or on request to each individual in that individual's native language and in an appropriate format including but not limited to braille, audio recording, electronic media, or large print.

Sec. 13. RCW 74.18.130 and 1983 c 194 s 13 are each amended to read as follows:

The department shall provide a program of vocational rehabilitation to assist blind persons to overcome ~~((vocational handicaps))~~ barriers to employment and to develop skills necessary for ~~((self-support))~~ employment and ~~((self-care))~~ independence. Applicants eligible for vocational rehabilitation services shall be blind persons ~~((who are blind as defined in RCW 74.18.020 and))~~ who also ~~((1) have no vision or limited vision which constitutes or results in a substantial handicap to employment and (2) can reasonably be expected to benefit from vocational rehabilitation services in terms of employability))~~ meet eligibility requirements as specified in the federal rehabilitation act of 1973.

Sec. 14. RCW 74.18.140 and 1983 c 194 s 14 are each amended to read as follows:

The department ~~((may provide to eligible individuals))~~ shall ensure that vocational rehabilitation services~~((, including medical and vocational diagnosis; vocational counseling, guidance, referral, and placement; rehabilitation training; physical and mental restoration; maintenance and transportation; reader services; interpreter services for the deaf; rehabilitation teaching services; orientation and mobility services; occupational licenses, tools, equipment, and initial stocks and supplies; telecommunications, sensory, and other technological aids and devices; and other goods and services which can be reasonably expected to benefit a client in terms of employability))~~ in accordance with requirements under the federal rehabilitation act of 1973 are available to meet the identified requirements of each eligible individual in preparing for, securing, retaining, or regaining an employment outcome that is consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

Sec. 15. RCW 74.18.150 and 1996 c 7 s 1 are each amended to read as follows:

The department may grant to eligible participants in the vocational rehabilitation ~~((clients))~~ program equipment and materials ~~((not to exceed the amount allowed by state financial policies and regulations))~~ in accordance with the provisions related to transfer of capital assets as set forth by the office of financial management in the state administrative and accounting manual, provided that the equipment or materials are required by the ~~((client's))~~ individual's ~~((written rehabilitation program))~~ plan for employment and are used ~~((by the client or former client))~~ in a manner consistent therewith. The department shall adopt rules to implement this section.

Sec. 16. RCW 74.18.170 and 1983 c 194 s 16 are each amended to read as follows:

The department may establish, construct, and/or operate rehabilitation or habilitation facilities to provide instruction in alternative skills necessary to adjust to blindness or substantial vision loss, to assist blind persons to develop increased confidence and independence, or to provide other services consistent

with the purposes of this chapter. The department shall adopt rules concerning selection criteria for participation, services, and other matters necessary for efficient and effective operation of such facilities.

Sec. 17. RCW 74.18.180 and 1983 c 194 s 18 are each amended to read as follows:

(1) The department ~~((, to the extent appropriations are made available,))~~ may provide a program of independent living services for ~~((independent living designed to meet the current and future needs of))~~ blind ~~((individuals))~~ persons who ~~((presently cannot function independently in their living environment, but who may benefit from services that will enable them to maintain contact with society and perform some tasks of daily living independently))~~ are not seeking vocational rehabilitation services.

(2) Independent living services may include, but are not limited to, instruction in adaptive skills of blindness, counseling regarding adjustment to vision loss, and provision of adaptive devices that enable service recipients to participate in the community and maintain or increase their independence.

Sec. 18. RCW 74.18.200 and 1985 c 97 s 1 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply in RCW 74.18.200 through 74.18.230.

(1) "Business enterprises program" means a program operated by the department under the federal Randolph-Sheppard Act, 20 U.S.C. Sec. 107 et seq., and under this chapter in support of blind persons operating vending businesses in public buildings.

(2) "Vending facility" means any stand, snack bar, cafeteria, or business at which food, tobacco, sundries, or other retail merchandise or service is sold or provided.

(3) "Vending machine" means any coin-operated machine that sells or provides food, tobacco, sundries, or other retail merchandise or service.

(4) "Blind person" means a person whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses or whose visual acuity, if better than 20/200, is accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than twenty degrees. In determining whether an individual is blind, there shall be an examination by a physician skilled in diseases of the eye, or by an optometrist, whichever the individual selects.

(5) "Licensee" means a blind person licensed by the state of Washington under the Randolph-Sheppard Act, this chapter, and the rules issued hereunder.

~~((5))~~ (6) "Public building" means any building and immediately adjacent outdoor space associated therewith, such as a patio or entryway, which is: (a) Owned by the state of Washington or any political subdivision thereof or any space leased by the state of Washington or any political subdivision thereof in any privately-owned building; and (b) dedicated to the administrative functions of the state or any political subdivision ~~((: PROVIDED, That any vending facility or vending machine))~~. However, this term shall not include property under the jurisdiction and control of a local board of education ((shall not be included)) without the consent ((and approval)) of ((that local)) such board.

(7) "Priority" means the department has first and primary right to operate the food service and vending facilities, including vending machines, on federal, state, county, municipal, and other local government property except those otherwise exempted by statute. Such right may, at the sole discretion of the department, be waived in the event that the department is temporarily unable to assert the priority.

Sec. 19. RCW 74.18.210 and 1983 c 194 s 21 are each amended to read as follows:

The department shall maintain or cause to be maintained a business enterprises program for blind persons to operate vending facilities in public buildings. The purposes of the business enterprises program are to implement the Randolph-Sheppard Act and thereby give priority to qualified blind persons in operating vending facilities on federal property, to make similar provisions for vending facilities in public buildings in the state of Washington and thereby increase employment opportunities for blind persons, and to encourage ~~((the))~~ blind persons to become successful, independent business persons.

Sec. 20. RCW 74.18.230 and 2002 c 71 s 2 are each amended to read as follows:

(1) There is established in the state treasury an account known as the business enterprises revolving account.

(2) The net proceeds from any vending machine operation in a public building, other than an operation managed by a licensee, shall be made payable to the business enterprises program, which will pay only the blind vendors' portion, at the subscriber's rate, for the purpose of funding a plan of health insurance for blind vendors, as provided in RCW 41.05.225. Net proceeds, for purposes of this section, means ~~((the))~~ gross ~~((amount received))~~ sales less ~~((the costs of the operation, including))~~ state sales tax and a fair minimum return to the vending machine owner or service provider, which return shall ~~((not exceed))~~ be a reasonable amount to be determined by the department.

(3) All federal moneys in the business enterprises revolving account shall be expended only for development and expansion of locations, equipment, management services, and payments to licensees in the business enterprises program.

(4) The business enterprises program shall be supported by the business enterprises revolving account and by income which may accrue to the department pursuant to the federal Randolph-Sheppard Act.

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

(1) RCW 74.18.160 (Vocational rehabilitation—Orientation and training center) and 1983 c 194 s 17; and

(2) RCW 74.18.250 (Specialized medical eye care—Prevention of blindness) and 1983 c 194 s 24.

Passed by the Senate April 22, 2003.

Passed by the House April 18, 2003.

Approved by the Governor May 20, 2003.

Filed in Office of Secretary of State May 20, 2003.

CHAPTER 410

[Senate Bill 6052]

TEACHERS—ALTERNATIVE ROUTE CERTIFICATION

AN ACT Relating to alternative route teacher certification; and amending RCW 28A.660.020, 28A.660.030, and 28A.660.050.

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

Sec. 1. RCW 28A.660.020 and 2001 c 158 s 3 are each amended to read as follows:

(1) Each district or consortia of school districts applying for ~~((state funds through this))~~ the alternative route certification program shall submit a proposal to the Washington professional educator standards board specifying:

(a) The route or routes the partnership program intends to offer and a detailed description of how the routes will be structured and operated by the partnership;

(b) The number of candidates that will be enrolled per route;

(c) An identification, indication of commitment, and description of the role of approved teacher preparation programs that are partnering with the district or consortia of districts;

(d) An assurance of district provision of adequate training for mentor teachers either through participation in a state mentor training academy or district-provided training that meets state-established mentor-training standards specific to the mentoring of alternative route candidates;

(e) An assurance that significant time will be provided for mentor teachers to spend with the alternative route teacher candidates throughout the internship. Partnerships must provide each candidate with intensive classroom mentoring until such time as the candidate demonstrates the competency necessary to manage the classroom with less intensive supervision and guidance from a mentor;

(f) A description of the rigorous screening process for applicants to alternative route programs, including entry requirements specific to each route, as provided in RCW 28A.660.040; and

(g) The design and use of a teacher development plan for each candidate. The plan shall specify the alternative route coursework and training required of each candidate and shall be developed by comparing the candidate's prior experience and coursework with the state's new performance-based standards for residency certification and adjusting any requirements accordingly. The plan may include the following components:

(i) A minimum of one-half of a school year, and an additional significant amount of time if necessary, of intensive mentorship, starting with full-time mentoring and progressing to increasingly less intensive monitoring and assistance as the intern demonstrates the skills necessary to take over the classroom with less intensive support. For route one and two candidates, before the supervision is diminished, the mentor of the teacher candidate at the school and the supervisor of the teacher candidate from the higher education teacher preparation program must both agree that the teacher candidate is ready to manage the classroom with less intensive supervision. For route three candidates, the mentor of the teacher candidate shall make the decision;

(ii) Identification of performance indicators based on the knowledge and skills standards required for residency certification by the state board of education;

(iii) Identification of benchmarks that will indicate when the standard is met for all performance indicators;

(iv) A description of strategies for assessing candidate performance on the benchmarks;

(v) Identification of one or more tools to be used to assess a candidate's performance once the candidate has been in the classroom for about one-half of a school year; and

(vi) A description of the criteria that would result in residency certification after about one-half of a school year but before the end of the program.

~~(2) ((Districts may apply for program funds to pay stipends to both mentor teachers and interns during their mentored internship. For both intern stipends and accompanying mentor stipends, the per intern district request for funds may not exceed the amount designated by the BA+0 cell on the statewide teacher salary allocation schedule. This amount shall be prorated for internships and mentorships that last less than a full school year. Interns in the program for a full year shall be provided a stipend of at least eighty percent of the amount generated by the BA+0 cell on the statewide teacher salary allocation schedule. This amount shall be prorated for internships that last less than a full school year))~~ To the extent funds are appropriated for this purpose, districts may apply for program funds to pay stipends to trained mentor teachers of interns during the mentored internship. The per intern amount of mentor stipend shall not exceed five hundred dollars.

Sec. 2. RCW 28A.660.030 and 2001 c 158 s 4 are each amended to read as follows:

(1) The professional educator standards board, with support from the office of the superintendent of public instruction, shall select school districts and consortia of school districts to receive partnership grants from funds appropriated by the legislature for this purpose. Factors to be considered in selecting proposals include, but are not limited to:

(a) The degree to which the district, or consortia of districts in partnership, are currently experiencing teacher shortages;

(b) The degree to which the proposal addresses criteria specified in RCW 28A.660.020 and is in keeping with specifications of program routes in RCW 28A.660.040;

(c) The cost-effectiveness of the proposed program; and

(d) Any demonstrated district and in-kind contributions to the program.

(2) Selection of proposals shall also take into consideration the need to ensure an adequate number of candidates for each type of route in order to evaluate their success.

(3) Funds appropriated for the partnership grant program in this chapter shall be administered by the office of the superintendent of public instruction.

Sec. 3. RCW 28A.660.050 and 2001 c 158 s 6 are each amended to read as follows:

The alternative route conditional scholarship program is created under the following guidelines:

(1) The program shall be administered by the higher education coordinating board. In administering the program, the higher education coordinating board has the following powers and duties:

(a) To adopt necessary rules and develop guidelines to administer the program;

(b) To collect and manage repayments from participants who do not meet their service obligations; and

(c) To accept grants and donations from public and private sources for the program.

(2) Participation in the alternative route conditional scholarship program is limited to (~~(classified staff in routes one and two)~~) interns of the partnership grant programs under RCW 28A.660.040. The Washington professional educator standards board shall select (~~(classified staff)~~) interns to receive conditional scholarships.

(3) In order to receive conditional scholarship awards, recipients shall be accepted and maintain enrollment in alternative certification routes through the partnership grant program, as provided in RCW 28A.660.040. Recipients must continue to make satisfactory progress towards completion of the alternative route certification program and receipt of a residency teaching certificate.

(4) For the purpose of this chapter, a conditional scholarship is a loan that is forgiven in whole or in part in exchange for service as a certificated teacher employed in a Washington state K-12 public school. The state shall forgive one year of loan obligation for every two years a recipient teaches in a public school. Recipients that fail to continue a course of study leading to residency teacher certification or cease to teach in a public school in the state of Washington in their endorsement area are required to repay the remaining loan principal with interest.

(5) Recipients who fail to fulfill the required teaching obligation are required to repay the remaining loan principal with interest and any other applicable fees. The higher education coordinating board shall adopt rules to define the terms for repayment, including applicable interest rates, fees, and deferments.

(6) To the extent funds are appropriated for this specific purpose, the annual amount of the scholarship is the annual cost of tuition for the alternative route certification program in which the recipient is enrolled, not to exceed (~~(four)~~) eight thousand dollars. The board may adjust the annual award by the average rate of resident undergraduate tuition and fee increases at the state universities as defined in RCW 28B.10.016.

(7) The higher education coordinating board may deposit all appropriations, collections, and any other funds received for the program in this chapter in the student loan account authorized in RCW 28B.102.060.

Passed by the Senate April 25, 2003.

Passed by the House April 24, 2003.

Approved by the Governor May 20, 2003.

Filed in Office of Secretary of State May 20, 2003.

CHAPTER 411

[Substitute House Bill 1470]

PUBLIC SCHOOLS—RESIDENCY

AN ACT Relating to residency for purposes of attending Washington public schools; and amending RCW 28A.225.170.

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

Sec. 1. RCW 28A.225.170 and 1969 ex.s. c 223 s 28A.58.210 are each amended to read as follows:

(1) Any child who is of school age and otherwise eligible residing within the boundaries of any military, naval, lighthouse, or other United States reservation, national park, or national forest or residing upon rented or leased undeeded lands within any Indian reservation within the state of Washington, shall be admitted to the public school, or schools, of any contiguous district without payment of tuition: PROVIDED, That the United States authorities in charge of such reservation or park shall cooperate fully with state, county, and school district authorities in the enforcement of the laws of this state relating to the compulsory attendance of children of school age, and all laws relating to and regulating school attendance.

(2) Any child who is of school age and otherwise eligible, residing in a home that is located in Idaho but that has a Washington address for the purposes of the United States postal service, shall be admitted, without payment of tuition, to the nearest Washington school district and shall be considered a resident student for state apportionment and all other purposes.

Passed by the House April 23, 2003.

Passed by the Senate April 14, 2003.

Approved by the Governor May 20, 2003.

Filed in Office of Secretary of State May 20, 2003.

CHAPTER 412

[Substitute House Bill 1829]

POSTRETIREMENT EMPLOYMENT

AN ACT Relating to postretirement employment in the public employees' retirement system and the teachers' retirement system; amending RCW 41.32.010, 41.32.570, 41.40.010, and 41.40.037; creating a new section; repealing 2001 c 317 s 1; and prescribing penalties.

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

***Sec. 1.** RCW 41.32.010 and 1997 c 254 s 3 are each amended to read as follows:

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

(1)(a) "Accumulated contributions" for plan 1 members, means the sum of all regular annuity contributions and, except for the purpose of withdrawal at the time of retirement, any amount paid under RCW 41.50.165(2) with regular interest thereon.

(b) "Accumulated contributions" for plan 2 members, means the sum of all contributions standing to the credit of a member in the member's individual account, including any amount paid under RCW 41.50.165(2), together with the regular interest thereon.

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

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

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

(5)(a) *"Beneficiary"* for plan 1 members, means any person in receipt of a retirement allowance or other benefit provided by this chapter.

(b) *"Beneficiary"* for plan 2 and plan 3 members, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

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

(7) *"Creditable service"* means membership service plus prior service for which credit is allowable. This subsection shall apply only to plan 1 members.

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

(9) *"Disability allowance"* means monthly payments during disability. This subsection shall apply only to plan 1 members.

(10)(a) *"Earnable compensation"* for plan 1 members, means:

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

(ii) *"Earnable compensation"* for plan 1 members also includes the following actual or imputed payments, which are not paid for personal services:

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

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

(iii) For members employed less than full time under written contract with a school district, or community college district, in an instructional position, for which the member receives service credit of less than one year in all of the years used to determine the earnable compensation used for computing

benefits due under RCW 41.32.497, 41.32.498, and 41.32.520, the member may elect to have earnable compensation defined as provided in RCW 41.32.345. For the purposes of this subsection, the term "instructional position" means a position in which more than seventyfive percent of the member's time is spent as a classroom instructor (including office hours), a librarian, or a counselor. Earnable compensation shall be so defined only for the purpose of the calculation of retirement benefits and only as necessary to insure that members who receive fractional service credit under RCW 41.32.270 receive benefits proportional to those received by members who have received fulltime service credit.

(iv) "Earnable compensation" does not include:

(A) Remuneration for unused sick leave authorized under RCW 41.04.340, 28A.400.210, or 28A.310.490;

(B) Remuneration for unused annual leave in excess of thirty days as authorized by RCW 43.01.044 and 43.01.041.

(b) "Earnable compensation" for plan 2 and plan 3 members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States Internal Revenue Code, but shall exclude lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay.

"Earnable compensation" for plan 2 and plan 3 members also includes the following actual or imputed payments which, except in the case of (b)(ii)(B) of this subsection, are not paid for personal services:

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

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

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

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

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

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

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

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

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

(16) *"Membership service"* means service rendered subsequent to the first day of eligibility of a person to membership in the retirement system: **PROVIDED**, That where a member is employed by two or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service is rendered. The provisions of this subsection shall apply only to plan 1 members.

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

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

(19) *"Prior service"* means service rendered prior to the first date of eligibility to membership in the retirement system for which credit is allowable. The provisions of this subsection shall apply only to plan 1 members.

(20) *"Prior service contributions"* means contributions made by a member to secure credit for prior service. The provisions of this subsection shall apply only to plan 1 members.

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

(22) *"Regular contributions"* means the amounts required to be deducted from the compensation of a member and credited to the member's individual account in the member reserve. This subsection shall apply only to plan 1 members.

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

(24)(a) *"Retirement allowance"* for plan 1 members, means monthly payments based on the sum of annuity and pension, or any optional benefits payable in lieu thereof.

(b) *"Retirement allowance"* for plan 2 and plan 3 members, means monthly payments to a retiree or beneficiary as provided in this chapter.

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

(26)(a) *"Service"* for plan 1 members means the time during which a member has been employed by an employer for compensation.

(i) If a member is employed by two or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service is rendered.

(ii) As authorized by RCW 28A.400.300, up to forty-five days of sick leave may be creditable as service solely for the purpose of determining eligibility to retire under RCW 41.32.470.

(iii) *As authorized in RCW 41.32.065, service earned in an out-of-state retirement system that covers teachers in public schools may be applied solely for the purpose of determining eligibility to retire under RCW 41.32.470.*

(b) *"Service" for plan 2 and plan 3 members, means periods of employment by a member for one or more employers for which earnable compensation is earned subject to the following conditions:*

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

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

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

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

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

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

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

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

(vi) *As authorized by RCW 28A.400.300, up to forty-five days of sick leave may be creditable as service solely for the purpose of determining eligibility to retire under RCW 41.32.470. For purposes of plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal to two service credit months. Use of less than forty-five days of sick leave is creditable as allowed under this subsection as follows:*

(A) *Less than eleven days equals one-quarter service credit month;*

(B) *Eleven or more days but less than twenty-two days equals one-half service credit month;*

(C) *Twenty-two days equals one service credit month;*

(D) *More than twenty-two days but less than thirty-three days equals one and one-quarter service credit month;*

(E) Thirty-three or more days but less than forty-five days equals one and one-half service credit month.

(vii) As authorized in RCW 41.32.065, service earned in an out-of-state retirement system that covers teachers in public schools may be applied solely for the purpose of determining eligibility to retire under RCW 41.32.470.

(viii) The department shall adopt rules implementing this subsection.

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

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

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

(30) "Average final compensation" for plan 2 and plan 3 members, means the member's average earnable compensation of the highest consecutive sixty service credit months prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation except under RCW 41.32.810(2).

(31) "Retiree" means any person who has begun accruing a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer while a member.

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

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

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

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

(36) "Substitute teacher" means:

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

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

(37)(a) "Eligible position" for plan 2 members from June 7, 1990, through September 1, 1991, means a position which normally requires two or more uninterrupted months of creditable service during September through August of the following year.

(b) "Eligible position" for plan 2 and plan 3 on and after September 1, 1991, means a position that, as defined by the employer, normally requires five or more months of at least seventy hours of earnable compensation during September through August of the following year.

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

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

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

(39) "Plan 2" means the teachers' retirement system, plan 2 providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977, and prior to July 1, 1996.

(40) "Plan 3" means the teachers' retirement system, plan 3 providing the benefits and funding provisions covering persons who first become members of the system on and after July 1, 1996, or who transfer under RCW 41.32.817.

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

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

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

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

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

(46) "Annual increase" means, initially, fifty-nine cents per month per year of service which amount shall be increased each July 1st by three percent, rounded to the nearest cent.

(47) "Member account" or "member's account" for purposes of plan 3 means the sum of the contributions and earnings on behalf of the member in the defined contribution portion of plan 3.

(48) "Separation from service or employment" occurs when a person has terminated all employment with an employer. Separation from service or employment does not occur, and if claimed by an employer or employee may be a violation of RCW 41.32.055, when an employee and employer have a written or oral agreement to resume employment with the same employer following termination.

(49) "Employed" or "employee" means a person who is providing services for compensation to an employer, unless the person is free from the employer's direction and control over the performance of work. The department shall adopt rules and interpret this subsection consistent with common law.

*Sec. 1 was vetoed. See message at end of chapter.

*Sec. 2. RCW 41.32.570 and 2001 2nd sp.s. c 10 s 3 are each amended to read as follows:

(1)(a) If a retiree enters employment with an employer sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every seven hours worked during that month. This reduction will be applied each month until

the retiree remains absent from employment with an employer for one full calendar month.

(b) The benefit reduction provided in (a) of this subsection will accrue for a maximum of one hundred forty hours per month. Any monthly benefit reduction over one hundred percent will be applied to the benefit the retiree is eligible to receive in subsequent months.

(2) Except as provided in subsection (3) of this section, any retired teacher or retired administrator who enters service in any public educational institution in Washington state ((and who has satisfied the break in employment requirement of subsection (1) of this section)) at least one calendar month after his or her accrual date shall cease to receive pension payments while engaged in such service, after the retiree has rendered service for more than ((one thousand five hundred)) eight hundred sixty-seven hours in a school year.

(3) Any retired teacher or retired administrator who enters service in any public educational institution in Washington state one and one-half calendar months or more after his or her accrual date and:

(a) Is hired into a position for which the school board has documented a justifiable need to hire a retiree into the position;

(b) Is hired through the established process for the position with the approval of the school board of the prospective employer;

(c) The employer retains records of the procedures followed and the decisions made in hiring the retired teacher or retired administrator and provides those records in the event of an audit; and

(d) The employee has not already rendered a cumulative total of more than (i) three thousand one hundred sixty-five hours of service as a teacher or principal, or (ii) one thousand nine hundred hours in any other capacity, while receiving pension payments, beyond an annual threshold of eight hundred sixty-seven hours;

shall cease to receive pension payments while engaged in that service after the retiree has rendered service for more than one thousand five hundred hours in a school year. The cumulative total limitations under this subsection apply prospectively to those retiring after the effective date of this act and retroactively to those who retired prior to the effective date of this act, and shall be calculated from the date of retirement.

(4) When a retired teacher or administrator renders service beyond eight hundred sixty-seven hours, the department shall collect from the employer the applicable employer retirement contributions for the entire duration of the member's employment during that fiscal year.

~~((3))~~ (5) The department shall collect and provide the state actuary with information relevant to the use of this section for the joint committee on pension policy.

~~((4))~~ (6) The legislature reserves the right to amend or repeal this section in the future and no member or beneficiary has a contractual right to be employed for more than ~~((five hundred twenty-five))~~ eight hundred sixty-seven hours per year without a reduction of his or her pension.

**Sec. 2 was vetoed. See message at end of chapter.*

NEW SECTION. Sec. 3. 2001 c 317 s 1 is repealed.

Sec. 4. RCW 41.40.010 and 2000 c 247 s 102 are each amended to read as follows:

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

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

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

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

(4)(a) "Employer" for plan 1 members, means every branch, department, agency, commission, board, and office of the state, any political subdivision or association of political subdivisions of the state admitted into the retirement system, and legal entities authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW; and the term shall also include any labor guild, association, or organization the membership of a local lodge or division of which is comprised of at least forty percent employees of an employer (other than such labor guild, association, or organization) within this chapter. The term may also include any city of the first class that has its own retirement system.

(b) "Employer" for plan 2 and plan 3 members, means every branch, department, agency, commission, board, and office of the state, and any political subdivision and municipal corporation of the state admitted into the retirement system, including public agencies created pursuant to RCW 35.63.070, 36.70.060, and 39.34.030; except that after August 31, 2000, school districts and educational service districts will no longer be employers for the public employees' retirement system plan 2.

(5) "Member" means any employee included in the membership of the retirement system, as provided for in RCW 41.40.023. RCW 41.26.045 does not prohibit a person otherwise eligible for membership in the retirement system from establishing such membership effective when he or she first entered an eligible position.

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

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

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

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

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

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

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

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

(8)(a) "Compensation earnable" for plan 1 members, means salaries or wages earned during a payroll period for personal services and where the compensation is not all paid in money, maintenance compensation shall be included upon the basis of the schedules established by the member's employer.

(i) "Compensation earnable" for plan 1 members also includes the following actual or imputed payments, which are not paid for personal services:

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

(B) If a leave of absence is taken by an individual for the purpose of serving in the state legislature, the salary which would have been received for the position from which the leave of absence was taken, shall be considered as compensation earnable if the employee's contribution is paid by the employee and the employer's contribution is paid by the employer or employee;

(C) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and 72.09.240;

(D) Compensation that a member would have received but for a disability occurring in the line of duty only as authorized by RCW 41.40.038;

(E) Compensation that a member receives due to participation in the leave sharing program only as authorized by RCW 41.04.650 through 41.04.670; and

(F) Compensation that a member receives for being in standby status. For the purposes of this section, a member is in standby status when not being paid for time actually worked and the employer requires the member to be prepared to report immediately for work, if the need arises, although the need may not arise.

(ii) "Compensation earnable" does not include:

(A) Remuneration for unused sick leave authorized under RCW 41.04.340, 28A.400.210, or 28A.310.490;

(B) Remuneration for unused annual leave in excess of thirty days as authorized by RCW 43.01.044 and 43.01.041.

(b) "Compensation earnable" for plan 2 and plan 3 members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States Internal Revenue Code, but shall exclude nonmoney maintenance compensation and lump sum or other payments for deferred annual sick leave,

unused accumulated vacation, unused accumulated annual leave, or any form of severance pay.

"Compensation earnable" for plan 2 and plan 3 members also includes the following actual or imputed payments, which are not paid for personal services:

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

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

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

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

(iii) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and 72.09.240;

(iv) Compensation that a member would have received but for a disability occurring in the line of duty only as authorized by RCW 41.40.038;

(v) Compensation that a member receives due to participation in the leave sharing program only as authorized by RCW 41.04.650 through 41.04.670; and

(vi) Compensation that a member receives for being in standby status. For the purposes of this section, a member is in standby status when not being paid for time actually worked and the employer requires the member to be prepared to report immediately for work, if the need arises, although the need may not arise.

(9)(a) "Service" for plan 1 members, except as provided in RCW 41.40.088, means periods of employment in an eligible position or positions for one or more employers rendered to any employer for which compensation is paid, and includes time spent in office as an elected or appointed official of an employer. Compensation earnable earned in full time work for seventy hours or more in any given calendar month shall constitute one service credit month except as provided in RCW 41.40.088. Compensation earnable earned for less than seventy hours in any calendar month shall constitute one-quarter service credit month of service except as provided in RCW 41.40.088. Only service credit months and one-quarter service credit months shall be counted in the computation of any retirement allowance or other benefit provided for in this chapter. Any fraction of a year of service shall be taken into account in the computation of such retirement allowance or benefits. Time spent in standby status, whether compensated or not, is not service.

(i) Service by a state employee officially assigned by the state on a temporary basis to assist another public agency, shall be considered as service as a state employee: PROVIDED, That service to any other public agency shall not

be considered service as a state employee if such service has been used to establish benefits in any other public retirement system.

(ii) An individual shall receive no more than a total of twelve service credit months of service during any calendar year. If an individual is employed in an eligible position by one or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service for seventy or more hours is rendered.

(iii) A school district employee may count up to forty-five days of sick leave as creditable service solely for the purpose of determining eligibility to retire under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of plan 1 "forty-five days" as used in RCW 28A.400.300 is equal to two service credit months. Use of less than forty-five days of sick leave is creditable as allowed under this subsection as follows:

(A) Less than twenty-two days equals one-quarter service credit month;

(B) Twenty-two days equals one service credit month;

(C) More than twenty-two days but less than forty-five days equals one and one-quarter service credit month.

(b) "Service" for plan 2 and plan 3 members, means periods of employment by a member in an eligible position or positions for one or more employers for which compensation earnable is paid. Compensation earnable earned for ninety or more hours in any calendar month shall constitute one service credit month except as provided in RCW 41.40.088. Compensation earnable earned for at least seventy hours but less than ninety hours in any calendar month shall constitute one-half service credit month of service. Compensation earnable earned for less than seventy hours in any calendar month shall constitute one-quarter service credit month of service. Time spent in standby status, whether compensated or not, is not service.

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

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

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

(iii) Up to forty-five days of sick leave may be creditable as service solely for the purpose of determining eligibility to retire under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal to two service credit months. Use of less than forty-five days of sick leave is creditable as allowed under this subsection as follows:

(A) Less than eleven days equals one-quarter service credit month;

(B) Eleven or more days but less than twenty-two days equals one-half service credit month;

(C) Twenty-two days equals one service credit month;

(D) More than twenty-two days but less than thirty-three days equals one and one-quarter service credit month;

(E) Thirty-three or more days but less than forty-five days equals one and one-half service credit month.

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

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

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

(13) "Membership service" means:

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

(b) All service after October 1, 1947, to any employer prior to the time of its admission into the retirement system for which member and employer contributions, plus interest as required by RCW 41.50.125, have been paid under RCW 41.40.056 or 41.40.057;

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

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

(14)(a) "Beneficiary" for plan 1 members, means any person in receipt of a retirement allowance, pension or other benefit provided by this chapter.

(b) "Beneficiary" for plan 2 and plan 3 members, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

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

(16) "Accumulated contributions" means the sum of all contributions standing to the credit of a member in the member's individual account, including any amount paid under RCW 41.50.165(2), together with the regular interest thereon.

(17)(a) "Average final compensation" for plan 1 members, means the annual average of the greatest compensation earnable by a member during any consecutive two year period of service credit months for which service credit is allowed; or if the member has less than two years of service credit months then the annual average compensation earnable during the total years of service for which service credit is allowed.

(b) "Average final compensation" for plan 2 and plan 3 members, means the member's average compensation earnable of the highest consecutive sixty months of service credit months prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation except under RCW 41.40.710(2).

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

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

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

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

(22) "Employee" or "employed" means a person who is providing services for compensation to an employer, unless the person is free from the employer's direction and control over the performance of work. The department shall adopt rules and interpret this subsection consistent with common law.

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

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

(25) "Eligible position" means:

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

(b) Any position occupied by an elected official or person appointed directly by the governor, or appointed by the chief justice of the supreme court under RCW 2.04.240(2) or 2.06.150(2), for which compensation is paid.

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

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

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

(29) "Retiree" means any person who has begun accruing a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer while a member.

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

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

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

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

(34) "Plan 2" means the public employees' retirement system, plan 2 providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977, and are not included in plan 3.

(35) "Plan 3" means the public employees' retirement system, plan 3 providing the benefits and funding provisions covering persons who:

(a) First become a member on or after:

(i) March 1, 2002, and are employed by a state agency or institute of higher education and who did not choose to enter plan 2; or

(ii) September 1, 2002, and are employed by other than a state agency or institute of higher education and who did not choose to enter plan 2; or

(b) Transferred to plan 3 under RCW 41.40.795.

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

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

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

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

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

(41) "Annual increase" means, initially, fifty-nine cents per month per year of service which amount shall be increased each July 1st by three percent, rounded to the nearest cent.

(42) "Separation from service" occurs when a person has terminated all employment with an employer. Separation from service or employment does not occur, and if claimed by an employer or employee may be a violation of RCW 41.40.055, when an employee and employer have a written or oral agreement to resume employment with the same employer following termination.

(43) "Member account" or "member's account" for purposes of plan 3 means the sum of the contributions and earnings on behalf of the member in the defined contribution portion of plan 3.

Sec. 5. RCW 41.40.037 and 2001 2nd sp.s. c 10 s 4 are each amended to read as follows:

(1)(a) If a retiree enters employment with an employer sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every eight hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(b) The benefit reduction provided in (a) of this subsection will accrue for a maximum of one hundred sixty hours per month. Any benefit reduction over one hundred percent will be applied to the benefit the retiree is eligible to receive in subsequent months.

(2)(a) Except as provided in (b) of this subsection, a retiree from plan 1 who ((has satisfied the break in employment requirement of subsection (1) of this section and who)) enters employment with an employer at least one calendar month after his or her accrual date may continue to receive pension payments while engaged in such service for up to ((one thousand five hundred)) eight hundred sixty-seven hours of service in a calendar year without a reduction of pension.

(b) A retiree from plan 1 who enters employment with an employer at least three calendar months after his or her accrual date and:

(i) Is hired into a position for which the employer has documented a justifiable need to hire a retiree into the position;

(ii) Is hired through the established process for the position with the approval of: A school board for a school district; the chief executive officer of a state agency employer; the secretary of the senate for the senate; the chief clerk of the house of representatives for the house of representatives; the secretary of the senate and the chief clerk of the house of representatives jointly for the joint legislative audit and review committee, the legislative transportation committee, the joint committee on pension policy, the legislative evaluation and accountability program, the legislative systems committee, and the statute law committee; or according to rules adopted for the rehiring of retired plan 1 members for a local government employer;

(iii) The employer retains records of the procedures followed and decisions made in hiring the retiree, and provides those records in the event of an audit; and

(iv) The employee has not already rendered a cumulative total of more than one thousand nine hundred hours of service while in receipt of pension payments beyond an annual threshold of eight hundred sixty-seven hours; shall cease to receive pension payments while engaged in that service after the retiree has rendered service for more than one thousand five hundred hours in a calendar year. The one thousand nine hundred hour cumulative total under this subsection applies prospectively to those retiring after the effective date of this act and retroactively to those who retired prior to the effective date of this act, and shall be calculated from the date of retirement.

(c) When a plan 1 member renders service beyond eight hundred sixty-seven hours, the department shall collect from the employer the applicable employer retirement contributions for the entire duration of the member's employment during that calendar year.

~~((b))~~ (d) A retiree from plan 2 or plan 3 who has satisfied the break in employment requirement of subsection (1) of this section may work up to eight hundred sixty-seven hours in a calendar year in an eligible position, as defined in RCW 41.32.010, 41.35.010, or 41.40.010, or as a fire fighter or law enforcement officer, as defined in RCW 41.26.030, without suspension of his or her benefit.

(3) If the retiree opts to reestablish membership under RCW 41.40.023(12), he or she terminates his or her retirement status and becomes a member. Retirement benefits shall not accrue during the period of membership and the individual shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible in accordance with RCW 41.40.180. However, if the right to retire is exercised to become effective before the member has rendered two uninterrupted years of service, the retirement

formula and survivor options the member had at the time of the member's previous retirement shall be reinstated.

(4) The department shall collect and provide the state actuary with information relevant to the use of this section for the joint committee on pension policy.

(5) The legislature reserves the right to amend or repeal this section in the future and no member or beneficiary has a contractual right to be employed for more than five months in a calendar year without a reduction of his or her pension.

NEW SECTION. Sec. 6. The department of retirement systems shall, in consultation with the employment security department, prepare a notice to employers to be included in the established process of informing employers of changes in the retirement systems. This notice will inform employers about the possible unemployment compensation consequences of hiring retirees.

Passed by the House April 26, 2003.

Passed by the Senate April 25, 2003.

Approved by the Governor May 20, 2003, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 20, 2003.

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

"I am returning herewith, without my approval as to sections 1 and 2, Substitute House Bill No. 1829 entitled:

"AN ACT Relating to postretirement employment in the public employees' retirement system and the teachers' retirement system;"

This bill would impose new standards and procedures for rehiring members of the Teachers Retirement System and the Public Employees Retirement System who have retired from public employment.

I initially proposed the retire-rehire legislation in 2001 to address the shortage of qualified teachers and school administrators. Prior to this law, the Teachers Retirement System penalized experienced teachers by limiting them to 30 years of retirement service credit, even if they taught longer than that.

Section 1 would make it a felony for a member of the Teachers Retirement System to enter into an oral or written agreement to resume employment after retirement. While I appreciate the intent of the Legislature to prohibit employees and employers from entering into private handshake deals, the penalty in this section is significantly more severe than the penalty for similar acts committed by members of the Public Employees Retirement System. Therefore, I am vetoing section 1.

Section 2 would provide new standards and procedures for the future employment of retirees within the public school system. I strongly support those accountability provisions. However, section 2 would also place an artificial "lifetime limit" on the number of hours that a retired member of the system could work after being rehired, and would make that limit retroactive. The retroactive lifetime limit will place an unreasonable recruitment burden on school districts facing significant shortages of qualified teachers and principals. We must protect the ability of school districts to provide for the education of our children, and trust their locally elected school boards to properly administer the retire-rehire law. Therefore, I am vetoing section 2.

While I am not vetoing Section 4, which would make it a gross misdemeanor for a member of the Public Employees Retirement System to enter into an oral or written agreement to resume employment after retirement, I am concerned that the language of the section is flawed and therefore almost impossible to prosecute under. I believe the Legislature should consider legislation to perfect the language to make the elements of the crime clear and to place the language into RCW 41.40.055, which is the section dealing with pension fraud for this retirement system.

For these reasons, I have vetoed sections 1 and 2 of Substitute House Bill No. 1829.

With the exception of sections 1 and 2, Substitute House Bill No. 1829 is approved."

CHAPTER 413

[Senate Bill 5437]

SCHOOL DISTRICT REGIONAL COMMITTEE

AN ACT Relating to appeals from decisions by the school district regional committee; and amending RCW 28A.315.205 and 28A.315.195.

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

Sec. 1. RCW 28A.315.205 and 1999 c 315 s 402 are each amended to read as follows:

(1) The chair of the regional committee shall schedule a hearing on the proposed transfer of territory at a location in the educational service district within sixty calendar days of being notified under RCW 28A.315.195 (7) or (8).

(2) Within thirty calendar days of the hearing under subsection (1) of this section, or final hearing if more than one is held by the committee, the committee shall issue its written findings and decision to approve or disapprove the proposed transfer of territory. The educational service district superintendent shall transmit a copy of the committee's decision to the superintendents of the affected school districts within ten calendar days.

(3) In carrying out the purposes of RCW 28A.315.015 and in making decisions as authorized under RCW 28A.315.095(1), the regional committee shall base its judgment upon whether and to the extent the proposed change in school district organization complies with RCW 28A.315.015(2) and rules adopted by the state board under chapter 34.05 RCW.

(4) State board rules under subsection (3) of this section shall provide for giving consideration to all of the following:

(a) ~~((The annual school performance reports required under RCW 28A.320.205 in the affected districts and improvement of the educational opportunities of pupils in the territory proposed for a change in school district organization;~~

(b)) Student educational opportunities as measured by the percentage of students performing at each level of the statewide mandated assessments and data regarding student attendance, graduation, and dropout rates;

(b) The safety and welfare of pupils. For the purposes of this subsection, "safety" means freedom or protection from danger, injury, or damage and "welfare" means a positive condition or influence regarding health, character, and well-being;

(c) The history and relationship of the property affected to the students and communities affected, including, for example, inclusion within a single school district, for school attendance and corresponding tax support purposes, of entire master planned communities that were or are to be developed pursuant to an integrated commercial and residential development plan with over one thousand dwelling units;

(d) Whether or not geographic accessibility warrants a favorable consideration of a recommended change in school district organization,

including remoteness or isolation of places of residence and time required to travel to and from school; and

(e) All funding sources of the affected districts, equalization among school districts of the tax burden for general fund and capital purposes through a reduction in disparities in per pupil valuation when all funding sources are considered, improvement in the economies in the administration and operation of schools, and the extent the proposed change would potentially reduce or increase the individual and aggregate transportation costs of the affected school districts.

(5)(a)(i) A petitioner or school district may appeal a decision by the regional committee (~~(to approve a change in school district organization)~~) to the state board based on the claim that the regional committee failed to follow the applicable statutory and regulatory procedures or acted in an arbitrary and capricious manner. Any such appeal shall be based on the record and the appeal must be filed within thirty days of the final decision of the regional committee.

(ii) If the state board finds that all applicable procedures were not followed or that the regional committee acted in an arbitrary and capricious manner, it shall refer the matter back to the regional committee with an explanation of the board's findings. The regional committee shall rehear the proposal.

(iii) If the state board finds that all applicable procedures were followed or that the regional committee did not act in an arbitrary and capricious manner, depending on the appeal, the educational service district shall be notified and directed to implement the changes.

(b) Any school district or citizen petitioner affected by a final decision of the regional committee may seek judicial review of the committee's decision in accordance with RCW 34.05.570.

Sec. 2. RCW 28A.315.195 and 1999 c 315 s 401 are each amended to read as follows:

(1) A proposed change in school district organization by transfer of territory from one school district to another may be initiated by a petition in writing presented to the educational service district superintendent:

(a) Signed by at least ~~(ten)~~ **fifty** percent **plus one** of the active registered voters residing in the territory proposed to be transferred; or

(b) Signed by a majority of the members of the board of directors of one of the districts affected by a proposed transfer of territory.

(2) The petition shall state the name and number of each district affected, describe the boundaries of the territory proposed to be transferred, and state the reasons for desiring the change and the number of children of school age, if any, residing in the territory.

(3) The educational service district superintendent shall not complete any transfer of territory under this section that involves ten percent or more of the common school student population of the entire district from which the transfer is proposed, unless the educational service district superintendent has first called and held a special election of the voters of the entire school district from which the transfer of territory is proposed. The purpose of the election is to afford those voters an opportunity to approve or reject the proposed transfer. A simple majority shall determine approval or rejection.

(4) The state board may establish rules limiting the frequency of petitions that may be filed pertaining to territory included in whole or in part in a previous petition.

(5) Upon receipt of the petition, the educational service district superintendent shall notify in writing the affected districts that:

(a) Each school district board of directors, whether or not initiating a proposed transfer of territory, is required to enter into negotiations with the affected district or districts;

(b) In the case of a citizen-initiated petition, the affected districts must negotiate on the entire proposed transfer of territory;

(c) The districts have ninety calendar days in which to agree to the proposed transfer of territory;

(d) The districts may request and shall be granted by the educational service district superintendent one thirty-day extension to try to reach agreement; and

(e) Any district involved in the negotiations may at any time during the ninety-day period notify the educational service district superintendent in writing that agreement will not be possible.

(6) If the negotiating school boards cannot come to agreement about the proposed transfer of territory, the educational service district superintendent, if requested by the affected districts, shall appoint a mediator. The mediator has thirty days to work with the affected school districts to see if an agreement can be reached on the proposed transfer of territory.

(7) If the affected school districts cannot come to agreement about the proposed transfer of territory, and the districts do not request the services of a mediator or the mediator was unable to bring the districts to agreement, either district may file with the educational service district superintendent a written request for a hearing by the regional committee.

(8) If the affected school districts cannot come to agreement about the proposed transfer of territory initiated by citizen petition, and the districts do not request the services of a mediator or the mediator was unable to bring the districts to agreement, the district in which the citizens who filed the petition reside shall file with the educational service district superintendent a written request for a hearing by the regional committee, unless a majority of the citizen petitioners request otherwise.

(9) Upon receipt of a notice under subsection (7) or (8) of this section, the educational service district superintendent shall notify the chair of the regional committee in writing within ten days.

(10) Costs incurred by school districts under this section shall be reimbursed by the state from such funds as are appropriated for this purpose.

Passed by the Senate April 25, 2003.

Passed by the House April 18, 2003.

Approved by the Governor May 20, 2003.

Filed in Office of Secretary of State May 20, 2003.

WASHINGTON LAWS

2003 1ST SPECIAL SESSION

CHAPTER 1

[Filed by Washington Citizens' Commission on Salaries for Elected Officials]

SALARIES—STATE ELECTED OFFICIALS

AN ACT Relating to salaries of elected officials; and amending RCW 43.03.011, 43.03.012, and 43.03.013.

Be it enacted by the Washington Citizens' Commission on Salaries for Elected Officials of the State of Washington:

Sec. 1. RCW 43.03.011 and 2001 1st sp.s. c 3 s 1 are each amended to read as follows:

Pursuant to Article XXVIII, section 1 of the state Constitution and RCW 43.03.010 and 43.03.310, the annual salaries of the state elected officials of the executive branch shall be as follows:

(1) ~~((Effective September 1, 2000:~~

(a) Governor	\$ 135,960
(b) Lieutenant governor	\$ 71,070
(c) Secretary of state	\$ 78,177
(d) Treasurer	\$ 95,275
(e) Auditor	\$ 95,275
(f) Attorney general	\$ 123,600
(g) Superintendent of public instruction	\$ 97,226
(h) Commissioner of public lands	\$ 97,226
(i) Insurance commissioner	\$ 88,580

(2) ~~Effective September 1, 2001:~~

(a) Governor	\$ 139,087
(b) Lieutenant governor	\$ 72,705
(c) Secretary of state	\$ 89,001
(d) Treasurer	\$ 97,466
(e) Auditor	\$ 97,466
(f) Attorney general	\$ 126,443
(g) Superintendent of public instruction	\$ 99,462
(h) Commissioner of public lands	\$ 99,462
(i) Insurance commissioner	\$ 90,617

(3) ~~Effective September 1, 2002:~~

(a) Governor	\$ 142,286
(b) Lieutenant governor	\$ 74,377
(c) Secretary of state	\$ 91,048
(d) Treasurer	\$ 99,708
(e) Auditor	\$ 99,708
(f) Attorney general	\$ 129,351
(g) Superintendent of public instruction	\$ 101,750
(h) Commissioner of public lands	\$ 101,750
(i) Insurance commissioner	\$ 92,702

(2) ~~Effective September 1, 2003:~~

(a) Governor	\$ 142,286
(b) Lieutenant governor	\$ 74,377
(c) Secretary of state	\$ 99,708
(d) Treasurer	\$ 99,708
(e) Auditor	\$ 99,708

<u>(f) Attorney general</u>	<u>\$ 129,351</u>
<u>(g) Superintendent of public instruction</u>	<u>\$ 101,750</u>
<u>(h) Commissioner of public lands</u>	<u>\$ 101,750</u>
<u>(i) Insurance commissioner</u>	<u>\$ 99,708</u>
<u>(3) Effective September 1, 2004:</u>	
<u>(a) Governor</u>	<u>\$ 145,132</u>
<u>(b) Lieutenant governor</u>	<u>\$ 75,865</u>
<u>(c) Secretary of state</u>	<u>\$ 101,702</u>
<u>(d) Treasurer</u>	<u>\$ 101,702</u>
<u>(e) Auditor</u>	<u>\$ 101,702</u>
<u>(f) Attorney general</u>	<u>\$ 131,938</u>
<u>(g) Superintendent of public instruction</u>	<u>\$ 103,785</u>
<u>(h) Commissioner of public lands</u>	<u>\$ 103,785</u>
<u>(i) Insurance commissioner</u>	<u>\$ 101,702</u>

(4) The lieutenant governor shall receive the fixed amount of his salary plus 1/260th of the difference between his salary and that of the governor for each day that the lieutenant governor is called upon to perform the duties of the governor by reason of the absence from the state, removal, resignation, death, or disability of the governor.

Sec. 2. RCW 43.03.012 and 2001 1st sp.s. c 3 s 2 are each amended to read as follows:

Pursuant to Article XXVIII, section 1 of the state Constitution and RCW 2.04.092, 2.06.062, 2.08.092, 3.58.010, and 43.03.310, the annual salaries of the judges of the state shall be as follows:

(1) ((Effective September 1, 2000:	
(a) Justices of the supreme court	\$ 123,600
(b) Judges of the court of appeals	\$ 117,420
(c) Judges of the superior court	\$ 111,549
(d) Full-time judges of the district court	\$ 105,972
(2) Effective September 1, 2001:	
(a) Justices of the supreme court	\$ 131,558
(b) Judges of the court of appeals	\$ 125,236
(c) Judges of the superior court	\$ 119,230
(d) Full-time judges of the district court	\$ 113,524
(3)) Effective September 1, 2002:	
(a) Justices of the supreme court	\$ 134,584
(b) Judges of the court of appeals	\$ 128,116
(c) Judges of the superior court	\$ 121,972
(d) Full-time judges of the district court	\$ 116,135
(2) Effective September 1, 2003:	
(a) Justices of the supreme court	\$ 134,584
(b) Judges of the court of appeals	\$ 128,116
(c) Judges of the superior court	\$ 121,972
(d) Full-time judges of the district court	\$ 116,135
(3) Effective September 1, 2004:	
(a) Justices of the supreme court	\$ 137,276
(b) Judges of the court of appeals	\$ 130,678
(c) Judges of the superior court	\$ 124,411
(d) Full-time judges of the district court	\$ 118,458

(4) The salary for a part-time district court judge shall be the proportion of full-time work for which the position is authorized, multiplied by the salary for a full-time district court judge.

Sec. 3. RCW 43.03.013 and 2001 1st sp.s. c 3 s 3 are each amended to read as follows:

Pursuant to Article XXVIII, section 1 of the state Constitution and RCW 43.03.010 and 43.03.310, the annual salary of members of the legislature shall be:

(1) ((Effective September 1, 2000:	
(a) Legislators	\$ 32,064
(b) Speaker of the house	\$ 40,064
(c) Senate majority leader	\$ 32,064
(d) Senate minority leader	\$ 36,064
(e) House minority leader	\$ 36,064
(2) Effective September 1, 2001:	
(a) Legislators	\$ 32,801
(b) Speaker of the house	\$ 40,801
(c) Senate majority leader	\$ 40,801
(d) House minority leader	\$ 36,801
(e) Senate minority leader	\$ 36,801
(3))) Effective September 1, 2002:	
(a) Legislators	\$ 33,556
(b) Speaker of the house	\$ 41,556
(c) Senate majority leader	\$ 41,556
(d) House minority leader	\$ 37,556
(e) Senate minority leader	\$ 37,556
(2) Effective September 1, 2003:	
(a) Legislators	\$ 33,556
(b) Speaker of the house	\$ 41,556
(c) Senate majority leader	\$ 41,556
(d) House minority leader	\$ 37,556
(e) Senate minority leader	\$ 37,556
(3) Effective September 1, 2004:	
(a) Legislators	\$ 34,227
(b) Speaker of the house	\$ 42,227
(c) Senate majority leader	\$ 42,227
(d) House minority leader	\$ 38,227
(e) Senate minority leader	\$ 38,227

Susan J. Byington, Chair
Washington Citizens' Commission on
Salaries for Elected Officials

Filed in Office of Secretary of State May 29, 2003

CHAPTER 2

[Engrossed Substitute Senate Bill 5071]

TAXATION—FAR PART 145 CERTIFICATED REPAIR STATIONS

AN ACT Relating to a business and occupation tax rate on certain FAR part 145 certificated repair stations; reenacting and amending RCW 82.04.250; adding a new section to chapter 82.32 RCW; providing an effective date; and providing an expiration date.

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

Sec. 1. RCW 82.04.250 and 1998 c 343 s 5 and 1998 c 312 s 4 are each reenacted and amended to read as follows:

(1) Upon every person except persons taxable under RCW 82.04.260(5), 82.04.272, or subsection (2) or (3) of this section engaging within this state in the business of making sales at retail, as to such persons, the amount of tax with respect to such business shall be equal to the gross proceeds of sales of the business, multiplied by the rate of 0.471 percent.

(2) Upon every person engaging within this state in the business of making sales at retail that are exempt from the tax imposed under chapter 82.08 RCW by reason of RCW 82.08.0261, 82.08.0262, or 82.08.0263 except as provided in subsection (3) of this section, as to such persons, the amount of tax with respect to such business shall be equal to the gross proceeds of sales of the business, multiplied by the rate of 0.484 percent.

(3) Upon every person engaging within this state in the business of making sales at retail that are exempt from the tax imposed under chapter 82.08 RCW by reason of RCW 82.08.0261, 82.08.0262, or 82.08.0263, that is classified by the federal aviation administration as a FAR part 145 certificated repair station with airframe and instrument ratings and limited ratings for nondestructive testing, radio, Class 3 Accessory, and specialized services, as to such persons, the amount of tax with respect to such business shall be equal to the gross proceeds of sales of the business, multiplied by the rate of .275 percent.

NEW SECTION. Sec. 2. A new section is added to chapter 82.32 RCW to read as follows:

(1) A person reporting tax under RCW 82.04.250(3) shall file a report to the department of revenue in the month following each calendar quarter containing the following information:

- (a) Number of production workers;
- (b) Average wage of production workers;
- (c) Total wages for production workers;
- (d) Total sales as measured by taxable receipts for activities reported under RCW 82.04.250(3); and
- (e) Total wages for production workers as a percent of total sales reported under RCW 82.04.250(3).

(2) A recipient who fails to submit a complete report under this section is ineligible on a prospective basis for the rate provided in RCW 82.04.250(3). The department of revenue shall notify the recipient in writing by mail that he or she is no longer eligible for the rate. The recipient is ineligible on the effective date of the postmark of the notice letter from the department of revenue. If the recipient satisfactorily completes the report, the department of revenue shall send a letter to the recipient indicating that the basis for the ineligibility has been corrected. The letter from the department of revenue is proof that eligibility has

been restored, and eligibility is effective prospectively beginning on the date the letter is postmarked.

NEW SECTION. Sec. 3. This act expires July 1, 2006.

NEW SECTION. Sec. 4. This act takes effect August 1, 2003.

Passed by the Senate June 10, 2003.

Passed by the House June 10, 2003.

Approved by the Governor June 20, 2003.

Filed in Office of Secretary of State June 20, 2003.

CHAPTER 3

[Engrossed Substitute House Bill 1288]

STATE GENERAL OBLIGATION BONDS

AN ACT Relating to state general obligation bonds and related accounts; adding a new chapter to Title 43 RCW; and declaring an emergency.

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

NEW SECTION. Sec. 1. For the purpose of providing funds to finance the projects described and authorized by the legislature in the capital and operating appropriation acts for the 2003-2005 fiscal biennium, and all costs incidental thereto, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of one billion two hundred twelve million dollars, or as much thereof as may be required, to finance these projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds.

NEW SECTION. Sec. 2. The proceeds from the sale of the bonds authorized in section 1 of this act shall be deposited in the state building construction account created by RCW 43.83.020. The proceeds shall be transferred as follows:

(1) One billion fifty-one million dollars to remain in the state building construction account created by RCW 43.83.020;

(2) Twenty-two million five hundred thousand dollars to the outdoor recreation account created by RCW 79A.25.060;

(3) Twenty-two million five hundred thousand dollars to the habitat conservation account created by RCW 79A.15.020;

(4) Eighty million dollars to the state taxable building construction account. All receipts from taxable bond issues are to be deposited into the account. If the state finance committee deems it necessary to issue more than the amount specified in this subsection (4) as taxable bonds in order to comply with federal internal revenue service rules and regulations pertaining to the use of nontaxable bond proceeds, the proceeds of such additional taxable bonds shall be transferred to the state taxable building construction account in lieu of any transfer otherwise provided by this section. The state treasurer shall submit written notice to the director of financial management if it is determined that any such additional transfer to the state taxable building construction account is necessary. Moneys in the account may be spent only after appropriation.

These proceeds shall be used exclusively for the purposes specified in this section 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.

NEW SECTION. Sec. 3. (1) The debt-limit general fund bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in section 2 (1), (2), (3), and (4) of this act.

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements on the bonds authorized in section 2 (1), (2), (3), and (4) of this act.

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of section 2 (1), (2), (3), and (4) of this act the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit general fund bond retirement account an amount equal to the amount certified by the state finance committee to be due on the payment date.

NEW SECTION. Sec. 4. (1) Bonds issued under sections 1 through 3 of this act 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.

(2) 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.

NEW SECTION. Sec. 5. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in section 1 of this act, and sections 2 and 3 of this act shall not be deemed to provide an exclusive method for the payment.

NEW SECTION. Sec. 6. Sections 1 through 5 of this act constitute a new chapter in Title 43 RCW.

NEW SECTION. Sec. 7. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 8. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House June 5, 2003.

Passed by the Senate June 5, 2003.

Approved by the Governor June 20, 2003.

Filed in Office of Secretary of State June 20, 2003.

CHAPTER 4

[Second Engrossed Second Substitute House Bill 1336]

WATER RESOURCE PLANNING

AN ACT Relating to watershed planning; amending RCW 90.82.040, 90.82.080, and 90.82.130; adding a new section to chapter 90.82 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. The legislature declares and reaffirms that a core principle embodied in chapter 90.82 RCW is that state agencies must work cooperatively with local citizens in a process of planning for future uses of water by giving local citizens and the governments closest to them the ability to determine the management of water in the WRIA or WRIs being planned.

The legislature further finds that this process of local planning must have all the tools necessary to accomplish this task and that it is essential for the legislature to provide a clear statutory process for implementation so that the locally developed plan will be the adopted and implemented plan to the greatest extent possible.

Sec. 2. RCW 90.82.040 and 2001 c 237 s 2 are each amended to read as follows:

(1) Once a WRIA planning unit has been initiated under RCW 90.82.060 and a lead agency has been designated, it shall notify the department and may apply to the department for funding assistance for conducting the planning and implementation. Funds shall be provided from and to the extent of appropriations made by the legislature to the department expressly for this purpose.

(2)(a) Each planning unit that has complied with subsection (1) of this section is eligible to receive watershed planning grants in the following amounts for the first three phases of watershed planning and phase four watershed plan implementation:

(i) Initiating governments may apply for an initial organizing grant of up to fifty thousand dollars for a single WRIA or up to seventy-five thousand dollars for a multi-WRIA management area in accordance with RCW 90.82.060(4);

(ii)(A) A planning unit may apply for up to two hundred thousand dollars for each WRIA in the management area for conducting watershed assessments in accordance with RCW 90.82.070, except that a planning unit that chooses to conduct a detailed assessment or studies under (a)(ii)(B) of this subsection or whose initiating governments choose or have chosen to include an instream flow or water quality component in accordance with RCW 90.82.080 or 90.82.090 may apply for up to one hundred thousand additional dollars for each instream flow and up to one hundred thousand additional dollars for each water quality component included for each WRIA to conduct an assessment on that optional component and for each WRIA in which the assessments or studies under (a)(ii)(B) of this subsection are conducted.

(B) A planning unit may elect to apply for up to one hundred thousand additional dollars to conduct a detailed assessment of multipurpose water storage opportunities or for studies of specific multipurpose storage projects which opportunities or projects are consistent with and support the other elements of the planning unit's watershed plan developed under this chapter; and

(iii) A planning unit may apply for up to two hundred fifty thousand dollars for each WRIA in the management area for developing a watershed plan and making recommendations for actions by local, state, and federal agencies, tribes, private property owners, private organizations, and individual citizens, including a recommended list of strategies and projects that would further the purpose of the plan in accordance with RCW 90.82.060 through 90.82.100.

(b) A planning unit may request a different amount for phase two or phase three of watershed planning than is specified in (a) of this subsection, provided that the total amount of funds awarded do not exceed the maximum amount the planning unit is eligible for under (a) of this subsection. The department shall approve such an alternative allocation of funds if the planning unit identifies how the proposed alternative will meet the goals of this chapter and provides a proposed timeline for the completion of planning. However, the up to one hundred thousand additional dollars in funding for instream flow and water quality components and for water storage assessments or studies that a planning unit may apply for under (a)(ii)(A) of this subsection may be used only for those instream flow, water quality, and water storage purposes.

(c) By December 1, 2001, or within one year of initiating phase one of watershed planning, whichever occurs later, the initiating governments for each planning unit must inform the department whether they intend to have the planning unit establish or amend instream flows as part of its planning process. If they elect to have the planning unit establish or amend instream flows, the planning unit is eligible to receive one hundred thousand dollars for that purpose in accordance with (a)(ii) of this subsection. If the initiating governments for a planning unit elect not to establish or amend instream flows as part of the unit's planning process, the department shall retain one hundred thousand dollars to carry out an assessment to support establishment of instream flows and to establish such flows in accordance with RCW 90.54.020(3)(a) and chapter 90.22 RCW. The department shall not use these funds to amend an existing instream flow unless requested to do so by the initiating governments for a planning unit.

(d) In administering funds appropriated for supplemental funding for optional plan components under (a)(ii) of this subsection, the department shall give priority in granting the available funds to proposals for setting or amending instream flows.

(e) A planning unit may apply for a matching grant for phase four watershed plan implementation following approval under the provisions of RCW 90.82.130. A match of ten percent is required and may include financial contributions or in-kind goods and services directly related to coordination and oversight functions. The match can be provided by the planning unit or by the combined commitments from federal agencies, tribal governments, local governments, special districts, or other local organizations. The phase four grant may be up to one hundred thousand dollars for each planning unit for each of the first three years of implementation. At the end of the three-year period, a two-year extension may be available for up to fifty thousand dollars each year. For planning units that cover more than one WRIA, additional matching funds of up to twenty-five thousand dollars may be available for each additional WRIA per year for the first three years of implementation, and up to twelve thousand five hundred dollars per WRIA per year for each of the fourth and fifth years.

(3)(a) The department shall use the eligibility criteria in this subsection (3) instead of rules, policies, or guidelines when evaluating grant applications at each stage of the grants program.

(b) In reviewing grant applications under this subsection (3), the department shall evaluate whether:

- (i) The planning unit meets all of the requirements of this chapter;
- (ii) The application demonstrates a need for state planning funds to accomplish the objectives of the planning process; and
- (iii) The application and supporting information evidences a readiness to proceed.

(c) In ranking grant applications submitted at each stage of the grants program, the department shall give preference to applications in the following order of priority:

(i) Applications from existing planning groups that have been in existence for at least one year;

(ii) Applications that address protection and enhancement of fish habitat in watersheds that have aquatic fish species listed or proposed to be listed as endangered or threatened under the federal endangered species act, 16 U.S.C. Sec. 1531 et seq. and for which there is evidence of an inability to supply adequate water for population and economic growth from:

- (A) First, multi-WRIA planning; and
- (B) Second, single WRIA planning;

(iii) Applications that address protection and enhancement of fish habitat in watersheds or for which there is evidence of an inability to supply adequate water for population and economic growth from:

- (A) First, multi-WRIA planning; and
- (B) Second, single WRIA planning.

(d) Except for phase four watershed plan implementation, the department may not impose any local matching fund requirement as a condition for grant eligibility or as a preference for receiving a grant.

(4) The department may retain up to one percent of funds allocated under this section to defray administrative costs.

(5) Planning under this chapter should be completed as expeditiously as possible, with the focus being on local stakeholders cooperating to meet local needs.

(6) Funding provided under this section shall be considered a contractual obligation against the moneys appropriated for this purpose.

NEW SECTION. Sec. 3. A new section is added to chapter 90.82 RCW to read as follows:

(1) Within one year of accepting funding under RCW 90.82.040(2)(e), the planning unit must complete a detailed implementation plan. Submittal of a detailed implementation plan to the department is a condition of receiving grants for the second and all subsequent years of the phase four grant.

(2) Each implementation plan must contain strategies to provide sufficient water for: (a) Production agriculture; (b) commercial, industrial, and residential use; and (c) instream flows. Each implementation plan must contain timelines to achieve these strategies and interim milestones to measure progress.

(3) The implementation plan must clearly define coordination and oversight responsibilities; any needed interlocal agreements, rules, or ordinances; any

needed state or local administrative approvals and permits that must be secured; and specific funding mechanisms.

(4) In developing the implementation plan, the planning unit must consult with other entities planning in the watershed management area and identify and seek to eliminate any activities or policies that are duplicative or inconsistent.

(5) By December 1, 2003, and by December 1st of each subsequent year, the director of the department shall report to the appropriate legislative standing committees regarding statutory changes necessary to enable state agency approval or permit decision making needed to implement a plan approved under this chapter.

Sec. 4. RCW 90.82.080 and 1998 c 247 s 4 are each amended to read as follows:

(1)(a) If the initiating governments choose, by majority vote, to include an instream flow component, it shall be accomplished in the following manner:

(i) If minimum instream flows have already been adopted by rule for a stream within the management area, unless the members of the local governments and tribes on the planning unit by a recorded unanimous vote request the department to modify those flows, the minimum instream flows shall not be modified under this chapter. If the members of local governments and tribes request the planning unit to modify instream flows and unanimous approval of the decision to modify such flow is not achieved, then the instream flows shall not be modified under this section;

(ii) If minimum stream flows have not been adopted by rule for a stream within the management area, setting the minimum instream flows shall be a collaborative effort between the department and members of the planning unit. The department must attempt to achieve consensus and approval among the members of the planning unit regarding the minimum flows to be adopted by the department. Approval is achieved if all government members and tribes that have been invited and accepted on the planning unit present for a recorded vote unanimously vote to support the proposed minimum instream flows, and all nongovernmental members of the planning unit present for the recorded vote, by a majority, vote to support the proposed minimum instream flows.

(b) The department shall undertake rule making to adopt flows under (a) of this subsection. The department may adopt the rules either by the regular rules adoption process provided in chapter 34.05 RCW, the expedited rules adoption process as set forth in RCW ((34.05.230)) 34.05.353, or through a rules adoption process that uses public hearings and notice provided by the county legislative authority to the greatest extent possible. Such rules do not constitute significant legislative rules as defined in RCW 34.05.328, and do not require the preparation of small business economic impact statements.

(c) If approval is not achieved within four years of the date the planning unit first receives funds from the department for conducting watershed assessments under RCW 90.82.040, the department may promptly initiate rule making under chapter 34.05 RCW to establish flows for those streams and shall have two additional years to establish the instream flows for those streams for which approval is not achieved.

(2)(a) Notwithstanding RCW 90.03.345, minimum instream flows set under this section for rivers or streams that do not have existing minimum instream flow levels set by rule of the department shall have a priority date of two years

after funding is first received from the department under RCW 90.82.040, unless determined otherwise by a unanimous vote of the members of the planning unit but in no instance may it be later than the effective date of the rule adopting such flow.

(b) Any increase to an existing minimum instream flow set by rule of the department shall have a priority date of two years after funding is first received for planning in the WRIA or multi-WRIA area from the department under RCW 90.82.040 and the priority date of the portion of the minimum instream flow previously established by rule shall retain its priority date as established under RCW 90.03.345.

(c) Any existing minimum instream flow set by rule of the department that is reduced shall retain its original date of priority as established by RCW 90.03.345 for the revised amount of the minimum instream flow level.

(3) Before setting minimum instream flows under this section, the department shall engage in government-to-government consultation with affected tribes in the management area regarding the setting of such flows.

(4) Nothing in this chapter either: (a) Affects the department's authority to establish flow requirements or other conditions under RCW 90.48.260 or the federal clean water act (33 U.S.C. Sec. 1251 et seq.) for the licensing or relicensing of a hydroelectric power project under the federal power act (16 U.S.C. Sec. 791 et seq.); or (b) affects or impairs existing instream flow requirements and other conditions in a current license for a hydroelectric power project licensed under the federal power act.

(5) If the planning unit is unable to obtain unanimity under subsection (1) of this section, the department may adopt rules setting such flows.

(6) The department shall report annually to the appropriate legislative standing committees on the progress of instream flows being set under this chapter, as well as progress toward setting instream flows in those watersheds not being planned under this chapter. The report shall be made by December 1, 2003, and by December 1st of each subsequent year.

Sec. 5. RCW 90.82.130 and 2001 c 237 s 4 are each amended to read as follows:

(1)(a) Upon completing its proposed watershed plan, the planning unit may approve the proposal by consensus of all of the members of the planning unit or by consensus among the members of the planning unit appointed to represent units of government and a majority vote of the nongovernmental members of the planning unit.

(b) If the proposal is approved by the planning unit, the unit shall submit the proposal to the counties with territory within the management area. If the planning unit has received funding beyond the initial organizing grant under RCW 90.82.040, such a proposal approved by the planning unit shall be submitted to the counties within four years of the date that funds beyond the initial funding are first drawn upon by the planning unit.

(c) If the watershed plan is not approved by the planning unit, the planning unit may submit the components of the plan for which agreement is achieved using the procedure under (a) of this subsection, or the planning unit may terminate the planning process.

(2)(a) With the exception of a county legislative authority that chooses to opt out of watershed planning as provided in (c) of this subsection, the

legislative authority of each of the counties with territory in the management area shall provide public notice of and conduct at least one public hearing on the proposed watershed plan submitted under this section. After the public hearings, the legislative authorities of these counties shall convene in joint session to consider the proposal. The counties may approve or reject the proposed watershed plan for the management area, but may not amend it. Approval of such a proposal shall be made by a majority vote of the members of each of the counties with territory in the management area.

(b) If a proposed watershed plan is not approved, it shall be returned to the planning unit with recommendations for revisions. Approval of such a revised proposal by the planning unit and the counties shall be made in the same manner provided for the original watershed plan. If approval of the revised plan is not achieved, the process shall terminate.

(c) A county legislative authority may choose to opt out of watershed planning under this chapter and the public hearing processes under (a) and (b) of this subsection if the county's affected territory within a particular management area is: (i) Less than five percent of the total territory within the management area; or (ii) five percent or more of the total territory within the management area and all other initiating governments within the management area consent. A county meeting these conditions and choosing to opt out shall notify the department and the other initiating governments of that choice prior to commencement of plan adoption under the provisions of (a) of this subsection. A county choosing to opt out under the provisions of this section shall not be bound by obligations contained in the watershed plan adopted for that management area under this chapter. Even if a county chooses to opt out under the provisions of this section, the other counties within a management area may adopt a proposed watershed plan as provided in this chapter.

(3) The planning unit shall not add an element to its watershed plan that creates an obligation unless each of the governments to be obligated has at least one representative on the planning unit and the respective members appointed to represent those governments agree to adding the element that creates the obligation. A member's agreeing to add an element shall be evidenced by a recorded vote of all members of the planning unit in which the members record support for adding the element. If the watershed plan is approved under subsections (1) and (2) of this section and the plan creates obligations: (a) For agencies of state government, the agencies shall adopt by rule the obligations of both state and county governments and rules implementing the state obligations, or, with the consent of the planning unit, may adopt policies, procedures, or agreements related to the obligations or implementation of the obligations in addition to or in lieu of rules. The obligations on state agencies are binding upon adoption of the obligations (~~into rule~~), and the agencies shall take other actions to fulfill their obligations as soon as possible, and should annually review implementation needs with respect to budget and staffing; (~~or~~) (b) for counties, the obligations are binding on the counties and the counties shall adopt any necessary implementing ordinances and take other actions to fulfill their obligations as soon as possible, and should annually review implementation needs with respect to budget and staffing; or (c) for an organization voluntarily accepting an obligation, the organization must adopt policies, procedures,

agreements, rules, or ordinances to implement the plan, and should annually review implementation needs with respect to budget and staffing.

(4) After a plan is adopted in accordance with subsection (3) of this section, and if the department participated in the planning process, the plan shall be deemed to satisfy the watershed planning authority of the department with respect to the components included under the provisions of RCW 90.82.070 through 90.82.100 for the watershed or watersheds included in the plan. The department shall use the plan as the framework for making future water resource decisions for the planned watershed or watersheds. Additionally, the department shall rely upon the plan as a primary consideration in determining the public interest related to such decisions.

(5) Once a WRIA plan has been approved under subsection (2) of this section for a watershed, the department may develop and adopt modifications to the plan or obligations imposed by the plan only through a form of negotiated rule making that uses the same processes that applied in that watershed for developing the plan.

(6) As used in this section, "obligation" means any action required as a result of this chapter that imposes upon a tribal government, county government, or state government, either: A fiscal impact; a redeployment of resources; or a change of existing policy.

Passed by the House June 5, 2003.

Passed by the Senate June 10, 2003.

Approved by the Governor June 20, 2003.

Filed in Office of Secretary of State June 20, 2003.

CHAPTER 5

[Second Engrossed Second Substitute House Bill 1338]

MUNICIPAL WATER SUPPLY—EFFICIENCY REQUIREMENTS

AN ACT Relating to certainty and flexibility of municipal water rights and efficient use of water; amending RCW 90.03.015, 90.03.260, 90.03.386, 90.03.330, 90.48.495, 90.48.112, 90.46.120, and 70.119A.110; adding new sections to chapter 90.03 RCW; adding a new section to chapter 70.119A RCW; adding a new section to chapter 43.20 RCW; adding a new section to chapter 90.82 RCW; and adding a new section to chapter 90.54 RCW.

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

Sec. 1. RCW 90.03.015 and 1987 c 109 s 65 are each amended to read as follows:

~~((As used in this chapter:))~~ The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

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

(2) "Director" means the director of ecology~~((; and)).~~

(3) "Municipal water supplier" means an entity that supplies water for municipal water supply purposes.

(4) "Municipal water supply purposes" means a beneficial use of water: (a) For residential purposes through fifteen or more residential service connections or for providing residential use of water for a nonresidential population that is, on average, at least twenty-five people for at least sixty days a year; (b) for governmental or governmental proprietary purposes by a city, town, public utility district, county, sewer district, or water district; or (c) indirectly for the

purposes in (a) or (b) of this subsection through the delivery of treated or raw water to a public water system for such use. If water is beneficially used under a water right for the purposes listed in (a), (b), or (c) of this subsection, any other beneficial use of water under the right generally associated with the use of water within a municipality is also for "municipal water supply purposes," including, but not limited to, beneficial use for commercial, industrial, irrigation of parks and open spaces, institutional, landscaping, fire flow, water system maintenance and repair, or related purposes. If a governmental entity holds a water right that is for the purposes listed in (a), (b), or (c) of this subsection, its use of water or its delivery of water for any other beneficial use generally associated with the use of water within a municipality is also for "municipal water supply purposes," including, but not limited to, beneficial use for commercial, industrial, irrigation of parks and open spaces, institutional, landscaping, fire flow, water system maintenance and repair, or related purposes.

(5) "Person" means any firm, association, water users' association, corporation, irrigation district, or municipal corporation, as well as an individual.

NEW SECTION. Sec. 2. A new section is added to chapter 90.03 RCW to read as follows:

Beneficial uses of water under a municipal water supply purposes water right may include water withdrawn or diverted under such a right and used for:

(1) Uses that benefit fish and wildlife, water quality, or other instream resources or related habitat values; or

(2) Uses that are needed to implement environmental obligations called for by a watershed plan approved under chapter 90.82 RCW, or a comprehensive watershed plan adopted under RCW 90.54.040(1) after the effective date of this section, a federally approved habitat conservation plan prepared in response to the listing of a species as being endangered or threatened under the federal endangered species act, 16 U.S.C. Sec. 1531 et seq., a hydropower license of the federal energy regulatory commission, or a comprehensive irrigation district management plan.

NEW SECTION. Sec. 3. A new section is added to chapter 90.03 RCW to read as follows:

When requested by a municipal water supplier or when processing a change or amendment to the right, the department shall amend the water right documents and related records to ensure that water rights that are for municipal water supply purposes, as defined in RCW 90.03.015, are correctly identified as being for municipal water supply purposes. This section authorizes a water right or portion of a water right held or acquired by a municipal water supplier that is for municipal water supply purposes as defined in RCW 90.03.015 to be identified as being a water right for municipal water supply purposes. However, it does not authorize any other water right or other portion of a right held or acquired by a municipal water supplier to be so identified without the approval of a change or transfer of the right or portion of the right for such a purpose.

Sec. 4. RCW 90.03.260 and 1987 c 109 s 84 are each amended to read as follows:

(1) Each application for permit to appropriate water shall set forth the name and post office address of the applicant, the source of water supply, the nature and amount of the proposed use, the time during which water will be required

each year, the location and description of the proposed ditch, canal, or other work, the time within which the completion of the construction and the time for the complete application of the water to the proposed use.

(2) If for agricultural purposes, ((it)) the application shall give the legal subdivision of the land and the acreage to be irrigated, as near as may be, and the amount of water expressed in acre feet to be supplied per season. If for power purposes, it shall give the nature of the works by means of which the power is to be developed, the head and amount of water to be utilized, and the uses to which the power is to be applied.

(3) If for construction of a reservoir, ((it)) the application shall give the height of the dam, the capacity of the reservoir, and the uses to be made of the impounded waters.

(4) If for community or multiple domestic water supply, the application shall give the projected number of service connections sought to be served. However, for a municipal water supplier that has an approved water system plan under chapter 43.20 RCW or an approval from the department of health to serve a specified number of service connections, the service connection figure in the application or any subsequent water right document is not an attribute limiting exercise of the water right as long as the number of service connections to be served under the right is consistent with the approved water system plan or specified number.

(5) If for municipal water supply, ((it)) the application shall give the present population to be served, and, as near as may be estimated, the future requirement of the municipality. However, for a municipal water supplier that has an approved water system plan under chapter 43.20 RCW or an approval from the department of health to serve a specified number of service connections, the population figures in the application or any subsequent water right document are not an attribute limiting exercise of the water right as long as the population to be provided water under the right is consistent with the approved water system plan or specified number.

(6) If for mining purposes, ((it)) the application shall give the nature of the mines to be served and the method of supplying and utilizing the water; also their location by legal subdivisions.

(7) All applications shall be accompanied by such maps and drawings, in duplicate, and such other data, as may be required by the department, and such accompanying data shall be considered as a part of the application.

Sec. 5. RCW 90.03.386 and 1991 c 350 s 2 are each amended to read as follows:

(1) Within service areas established pursuant to chapter((s)) 43.20 ((and)) or 70.116 RCW, the department of ecology and the department of health shall coordinate approval procedures to ensure compliance and consistency with the approved water system plan or small water system management program.

(2) The effect of the department of health's approval of a planning or engineering document that describes a municipal water supplier's service area under chapter 43.20 RCW, or the local legislative authority's approval of service area boundaries in accordance with procedures adopted pursuant to chapter 70.116 RCW, is that the place of use of a surface water right or ground water right used by the supplier includes any portion of the approved service area that was not previously within the place of use for the water right if the supplier is in

compliance with the terms of the water system plan or small water system management program, including those regarding water conservation, and the alteration of the place of use is not inconsistent, regarding an area added to the place of use, with: Any comprehensive plans or development regulations adopted under chapter 36.70A RCW; any other applicable comprehensive plan, land use plan, or development regulation adopted by a city, town, or county; or any watershed plan approved under chapter 90.82 RCW, or a comprehensive watershed plan adopted under RCW 90.54.040(1) after the effective date of this section, if such a watershed plan has been approved for the area.

(3) A municipal water supplier must implement cost-effective water conservation in accordance with the requirements of section 7 of this act as part of its approved water system plan or small water system management program. In preparing its regular water system plan update, a municipal water supplier with one thousand or more service connections must describe: (a) The projects, technologies, and other cost-effective measures that comprise its water conservation program; (b) improvements in the efficiency of water system use resulting from implementation of its conservation program over the previous six years; and (c) projected effects of delaying the use of existing inchoate rights over the next six years through the addition of further cost-effective water conservation measures before it may divert or withdraw further amounts of its inchoate right for beneficial use. When establishing or extending a surface or ground water right construction schedule under RCW 90.03.320, the department must take into consideration the public water system's use of conserved water.

Sec. 6. RCW 90.03.330 and 1987 c 109 s 89 are each amended to read as follows:

(1) Upon a showing satisfactory to the department that any appropriation has been perfected in accordance with the provisions of this chapter, it shall be the duty of the department to issue to the applicant a certificate stating such facts in a form to be prescribed by ~~((him))~~ the director, and such certificate shall thereupon be recorded with the department. Any original water right certificate issued, as provided by this chapter, shall be recorded with the department and thereafter, at the expense of the party receiving the same, be transmitted by the department ~~((transmitted))~~ to the county auditor of the county or counties where the distributing system or any part thereof is located, and be recorded in the office of such county auditor, and thereafter be transmitted to the owner thereof.

(2) Except as provided for the issuance of certificates under RCW 90.03.240 and for the issuance of certificates following the approval of a change, transfer, or amendment under RCW 90.03.380 or 90.44.100, the department shall not revoke or diminish a certificate for a surface or ground water right for municipal water supply purposes as defined in RCW 90.03.015 unless the certificate was issued with ministerial errors or was obtained through misrepresentation. The department may adjust such a certificate under this subsection if ministerial errors are discovered, but only to the extent necessary to correct the ministerial errors. The department may diminish the right represented by such a certificate if the certificate was obtained through a misrepresentation on the part of the applicant or permit holder, but only to the extent of the misrepresentation. The authority provided by this subsection does not include revoking, diminishing, or adjusting a certificate based on any change in policy regarding the issuance of such certificates that has occurred since the certificate was issued. This

subsection may not be construed as providing any authority to the department to revoke, diminish, or adjust any other water right.

(3) This subsection applies to the water right represented by a water right certificate issued prior to the effective date of this section for municipal water supply purposes as defined in RCW 90.03.015 where the certificate was issued based on an administrative policy for issuing such certificates once works for diverting or withdrawing and distributing water for municipal supply purposes were constructed rather than after the water had been placed to actual beneficial use. Such a water right is a right in good standing.

(4) After the effective date of this section, the department must issue a new certificate under subsection (1) of this section for a water right represented by a water right permit only for the perfected portion of a water right as demonstrated through actual beneficial use of water.

NEW SECTION. Sec. 7. A new section is added to chapter 70.119A RCW to read as follows:

(1) It is the intent of the legislature that the department establish water use efficiency requirements designed to ensure efficient use of water while maintaining water system financial viability, improving affordability of supplies, and enhancing system reliability.

(2) The requirements of this section shall apply to all municipal water suppliers and shall be tailored to be appropriate to system size, forecasted system demand, and system supply characteristics.

(3) For the purposes of this section:

(a) Water use efficiency includes conservation planning requirements, water distribution system leakage standards, and water conservation performance reporting requirements; and

(b) "Municipal water supplier" and "municipal water supply purposes" have the meanings provided by RCW 90.03.015.

(4) To accomplish the purposes of this section, the department shall adopt rules necessary to implement this section by December 31, 2005. The department shall:

(a) Develop conservation planning requirements that ensure municipal water suppliers are: (i) Implementing programs to integrate conservation with water system operation and management; and (ii) identifying how to appropriately fund and implement conservation activities. Requirements shall apply to the conservation element of water system plans and small water system management programs developed pursuant to chapter 43.20 RCW. In establishing the conservation planning requirements the department shall review the current department conservation planning guidelines and include those elements that are appropriate for rule. Conservation planning requirements shall include but not be limited to:

(A) Selection of cost-effective measures to achieve a system's water conservation objectives. Requirements shall allow the municipal water supplier to select and schedule implementation of the best methods for achieving its conservation objectives;

(B) Evaluation of the feasibility of adopting and implementing water delivery rate structures that encourage water conservation;

(C) Evaluation of each system's water distribution system leakage and, if necessary, identification of steps necessary for achieving water distribution system leakage standards developed under (b) of this subsection;

(D) Collection and reporting of water consumption and source production and/or water purchase data. Data collection and reporting requirements shall be sufficient to identify water use patterns among utility customer classes, where applicable, and evaluate the effectiveness of each system's conservation program. Requirements, including reporting frequency, shall be appropriate to system size and complexity. Reports shall be available to the public; and

(E) Establishment of minimum requirements for water demand forecast methodologies such that demand forecasts prepared by municipal water suppliers are sufficient for use in determining reasonably anticipated future water needs;

(b) Develop water distribution system leakage standards to ensure that municipal water suppliers are taking appropriate steps to reduce water system leakage rates or are maintaining their water distribution systems in a condition that results in leakage rates in compliance with the standards. Limits shall be developed in terms of percentage of total water produced and/or purchased and shall not be lower than ten percent. The department may consider alternatives to the percentage of total water supplied where alternatives provide a better evaluation of the water system's leakage performance. The department shall institute a graduated system of requirements based on levels of water system leakage. A municipal water supplier shall select one or more control methods appropriate for addressing leakage in its water system;

(c) Establish minimum requirements for water conservation performance reporting to assure that municipal water suppliers are regularly evaluating and reporting their water conservation performance. The objective of setting conservation goals is to enhance the efficient use of water by the water system customers. Performance reporting shall include:

(i) Requirements that municipal water suppliers adopt and achieve water conservation goals. The elected governing board or governing body of the water system shall set water conservation goals for the system. In setting water conservation goals the water supplier may consider historic conservation performance and conservation investment, customer base demographics, regional climate variations, forecasted demand and system supply characteristics, system financial viability, system reliability, and affordability of water rates. Conservation goals shall be established by the municipal water supplier in an open public forum;

(ii) Requirements that the municipal water supplier adopt schedules for implementing conservation program elements and achieving conservation goals to ensure that progress is being made toward adopted conservation goals;

(iii) A reporting system for regular reviews of conservation performance against adopted goals. Performance reports shall be available to customers and the public. Requirements, including reporting frequency, shall be appropriate to system size and complexity;

(iv) Requirements that any system not meeting its water conservation goals shall develop a plan for modifying its conservation program to achieve its goals along with procedures for reporting performance to the department;

(v) If a municipal water supplier determines that further reductions in consumption are not reasonably achievable, it shall identify how current consumption levels will be maintained;

(d) Adopt rules that, to the maximum extent practical, utilize existing mechanisms and simplified procedures in order to minimize the cost and complexity of implementation and to avoid placing unreasonable financial burden on smaller municipal systems.

(5) The department shall establish an advisory committee to assist the department in developing rules for water use efficiency. The advisory committee shall include representatives from public water system customers, environmental interest groups, business interest groups, a representative cross-section of municipal water suppliers, a water utility conservation professional, tribal governments, the department of ecology, and any other members determined necessary by the department. The department may use the water supply advisory committee created pursuant to RCW 70.119A.160 augmented with additional participants as necessary to comply with this subsection to assist the department in developing rules.

(6) The department shall provide technical assistance upon request to municipal water suppliers and local governments regarding water conservation, which may include development of best management practices for water conservation programs, conservation landscape ordinances, conservation rate structures for public water systems, and general public education programs on water conservation.

(7) To ensure compliance with this section, the department shall establish a compliance process that incorporates a graduated approach employing the full range of compliance mechanisms available to the department.

(8) Prior to completion of rule making required in subsection (4) of this section, municipal water suppliers shall continue to meet the existing conservation requirements of the department and shall continue to implement their current water conservation programs.

NEW SECTION. Sec. 8. A new section is added to chapter 43.20 RCW to read as follows:

In approving the water system plan of a public water system, the department shall ensure that water service to be provided by the system under the plan for any new industrial, commercial, or residential use is consistent with the requirements of any comprehensive plans or development regulations adopted under chapter 36.70A RCW or any other applicable comprehensive plan, land use plan, or development regulation adopted by a city, town, or county for the service area. A municipal water supplier, as defined in RCW 90.03.015, has a duty to provide retail water service within its retail service area if: (1) Its service can be available in a timely and reasonable manner; (2) the municipal water supplier has sufficient water rights to provide the service; (3) the municipal water supplier has sufficient capacity to serve the water in a safe and reliable manner as determined by the department of health; and (4) it is consistent with the requirements of any comprehensive plans or development regulations adopted under chapter 36.70A RCW or any other applicable comprehensive plan, land use plan, or development regulation adopted by a city, town, or county for the service area and, for water service by the water utility of a city or town, with the utility service extension ordinances of the city or town.

NEW SECTION. Sec. 9. A new section is added to chapter 90.82 RCW to read as follows:

(1) The timelines and interim milestones in a detailed implementation plan required by section 3, chapter . . . (Engrossed Second Substitute House Bill No. 1336), Laws of 2003 must address the planned future use of existing water rights for municipal water supply purposes, as defined in RCW 90.03.015, that are inchoate, including how these rights will be used to meet the projected future needs identified in the watershed plan, and how the use of these rights will be addressed when implementing instream flow strategies identified in the watershed plan.

(2) The watershed planning unit or other authorized lead agency shall ensure that holders of water rights for municipal water supply purposes not currently in use are asked to participate in defining the timelines and interim milestones to be included in the detailed implementation plan.

(3) The department of health shall annually compile a list of water system plans and plan updates to be reviewed by the department during the coming year and shall consult with the departments of community, trade, and economic development, ecology, and fish and wildlife to: (a) Identify watersheds where further coordination is needed between water system planning and local watershed planning under this chapter; and (b) develop a work plan for conducting the necessary coordination.

NEW SECTION. Sec. 10. A new section is added to chapter 90.54 RCW to read as follows:

The department shall prioritize the expenditure of funds and other resources for programs related to streamflow restoration in watersheds where the exercise of inchoate water rights may have a larger effect on streamflows and other water uses.

Sec. 11. RCW 90.48.495 and 1989 c 348 s 10 are each amended to read as follows:

The department of ecology shall require sewer plans to include a discussion of water conservation measures considered or underway that would reduce flows to the sewerage system and an analysis of their anticipated impact on public sewer service and treatment capacity.

Sec. 12. RCW 90.48.112 and 1997 c 444 s 9 are each amended to read as follows:

The evaluation of any plans submitted under RCW 90.48.110 must include consideration of opportunities for the use of reclaimed water as defined in RCW 90.46.010. Wastewater plans submitted under RCW 90.48.110 must include a statement describing how applicable reclamation and reuse elements will be coordinated as required under RCW 90.46.120(2).

Sec. 13. RCW 90.46.120 and 1997 c 444 s 1 are each amended to read as follows:

(1) The owner of a wastewater treatment facility that is reclaiming water with a permit issued under this chapter has the exclusive right to any reclaimed water generated by the wastewater treatment facility. Use and distribution of the reclaimed water by the owner of the wastewater treatment facility is exempt from the permit requirements of RCW 90.03.250 and 90.44.060. Revenues derived from the reclaimed water facility shall be used only to offset the cost of

operation of the wastewater utility fund or other applicable source of system-wide funding.

(2) If the proposed use or uses of reclaimed water are intended to augment or replace potable water supplies or create the potential for the development of additional potable water supplies, such use or uses shall be considered in the development of the regional water supply plan or plans addressing potable water supply service by multiple water purveyors. The owner of a wastewater treatment facility that proposes to reclaim water shall be included as a participant in the development of such regional water supply plan or plans.

(3) Where opportunities for the use of reclaimed water exist within the period of time addressed by a water supply plan or coordinated water system plan developed under chapter 43.20 or 70.116 RCW, these plans must be developed and coordinated to ensure that opportunities for reclaimed water are evaluated. The requirements of this subsection (3) do not apply to water system plans developed under chapter 43.20 RCW for utilities serving less than one thousand service connections.

NEW SECTION, Sec. 14. A new section is added to chapter 90.03 RCW to read as follows:

(1) An unperfected surface water right for municipal water supply purposes or a portion thereof held by a municipal water supplier may be changed or transferred in the same manner as provided by RCW 90.03.380 for any purpose if:

(a) The supplier is in compliance with the terms of an approved water system plan or small water system management program under chapter 43.20 or 70.116 RCW that applies to the supplier, including those regarding water conservation;

(b) Instream flows have been established by rule for the water resource inventory area, as established in chapter 173-500 WAC as it exists on the effective date of this section, that is the source of the water for the transfer or change;

(c) A watershed plan has been approved for the water resource inventory area referred to in (b) of this subsection under chapter 90.82 RCW and a detailed implementation plan has been completed that satisfies the requirements of section 3, chapter . . ., Laws of 2003 (section 3, Engrossed Second Substitute House Bill No. 1336) or a watershed plan has been adopted after the effective date of this section for that water resource inventory area under RCW 90.54.040(1) and a detailed implementation plan has been completed that satisfies the requirements of section 3, chapter . . ., Laws of 2003 (section 3, Engrossed Second Substitute House Bill No. 1336); and

(d) Stream flows that satisfy the instream flows referred to in (b) of this subsection are met or the milestones for satisfying those instream flows required under (c) of this subsection are being met.

(2) If the criteria listed in subsection (1)(a) through (d) of this section are not satisfied, an unperfected surface water right for municipal water supply purposes or a portion thereof held by a municipal water supplier may nonetheless be changed or transferred in the same manner as provided by RCW 90.03.380 if the change or transfer is:

(a) To provide water for an instream flow requirement that has been established by the department by rule;

(b) Subject to stream flow protection or restoration requirements contained in: A federally approved habitat conservation plan under the federal endangered species act, 16 U.S.C. Sec. 1531 et seq., a hydropower license of the federal energy regulatory commission, or a watershed agreement established under section 16 of this act;

(c) For a water right that is subject to instream flow requirements or agreements with the department and the change or transfer is also subject to those instream flow requirements or agreements; or

(d) For resolving or alleviating a public health or safety emergency caused by a failing public water supply system currently providing potable water to existing users, as such a system is described in section 15 of this act, and if the change, transfer, or amendment is for correcting the actual or anticipated cause or causes of the public water system failure. Inadequate water rights for a public water system to serve existing hookups or to accommodate future population growth or other future uses do not constitute a public health or safety emergency.

(3) If the recipient of water under a change or transfer authorized by subsection (1) of this section is a water supply system, the receiving system must also be in compliance with the terms of an approved water system plan or small water system management program under chapter 43.20 or 70.116 RCW that applies to the system, including those regarding water conservation.

(4) The department must provide notice to affected tribes of any transfer or change proposed under this section.

NEW SECTION, Sec. 15. A new section is added to chapter 90.03 RCW to read as follows:

To be considered a failing public water system for the purposes of section 14 of this act, the department of health, in consultation with the department and the local health authority, must make a determination that the system meets one or more of the following conditions:

(1) A public water system has failed, or is in danger of failing within two years, to meet state board of health standards for the delivery of potable water to existing users in adequate quantity or quality to meet basic human drinking, cooking, and sanitation needs or to provide adequate fire protection flows;

(2) The current water source has failed or will fail so that the public water system is or will become incapable of exercising its existing water rights to meet existing needs for drinking, cooking, and sanitation purposes after all reasonable conservation efforts have been implemented; or

(3) A change in source is required to meet drinking water quality standards and avoid unreasonable treatment costs, or the state department of health determines that the existing source of supply is unacceptable for human use.

NEW SECTION, Sec. 16. A new section is added to chapter 90.03 RCW to read as follows:

(1) On a pilot project basis, the department may enter into a watershed agreement with one or more municipal water suppliers in water resource inventory area number one to meet the objectives established in a water resource management program approved or being developed under chapter 90.82 RCW with the consent of the initiating governments of the water resource inventory area. The term of an agreement may not exceed ten years, but the agreement may be renewed or amended upon agreement of the parties.

- (2) A watershed agreement must be consistent with:
- (a) Growth management plans developed under chapter 36.70A RCW where these plans are adopted and in effect;
 - (b) Water supply plans and small water system management programs approved under chapter 43.20 or 70.116 RCW;
 - (c) Coordinated water supply plans approved under chapter 70.116 RCW; and
 - (d) Water use efficiency and conservation requirements and standards established by the state department of health or such requirements and standards as are provided in an approved watershed plan, whichever are the more stringent.
- (3) A watershed agreement must:
- (a) Require the public water system operated by the participating municipal water supplier to meet obligations under the watershed plan;
 - (b) Establish performance measures and timelines for measures to be completed;
 - (c) Provide for monitoring of stream flows and metering of water use as needed to ensure that the terms of the agreement are met; and
 - (d) Require annual reports from the water users regarding performance under the agreement.
- (4) As needed to implement watershed agreement activities, the department may provide or receive funding, or both, under its existing authorities.
- (5) The department must provide opportunity for public review of a proposed agreement before it is executed. The department must make proposed and executed watershed agreements and annual reports available on the department's internet web site.
- (6) The department must consult with affected local governments and the state departments of health and fish and wildlife before executing an agreement.
- (7) Before executing a watershed agreement, the department must conduct a government-to-government consultation with affected tribal governments. The municipal water suppliers operating the public water systems that are proposing to enter into the agreements must be invited to participate in the consultations. During these consultations, the department and the municipal water suppliers shall explore the potential interest of the tribal governments or governments in participating in the agreement.
- (8) Any person aggrieved by the department's failure to satisfy the requirements in subsection (3) of this section as embodied in the department's decision to enter into a watershed agreement under this section may, within thirty days of the execution of such an agreement, appeal the department's decision to the pollution control hearings board under chapter 43.21B RCW.
- (9) Any projects implemented by a municipal water system under the terms of an agreement reached under this section may be continued and maintained by the municipal water system after the agreement expires or is terminated as long as the conditions of the agreement under which they were implemented continue to be met.
- (10) Before December 31, 2003, and December 31, 2004, the department must report to the appropriate committees of the legislature the results of the pilot project provided for in this section. Based on the experience of the pilot project, the department must offer any suggested changes in law that would

improve, facilitate, and maximize the implementation of watershed plans adopted under this chapter.

NEW SECTION. Sec. 17. A new section is added to chapter 90.03 RCW to read as follows:

The department may not enter into new watershed agreements under section 16 of this act after July 1, 2008. This section does not apply to the renewal of agreements in effect prior to that date.

Sec. 18. RCW 70.119A.110 and 1991 c 304 s 5 are each amended to read as follows:

(1) No person may operate a group A public water system unless the person first submits an application to the department and receives an operating permit as provided in this section. A new application must be submitted upon any change in ownership of the system. Any person operating a public water system on July 28, 1991, may continue to operate the system until the department takes final action, including any time necessary for a hearing under subsection (3) of this section, on a permit application submitted by the person operating the system under the rules adopted by the department to implement this section.

(2) The department may require that each application include the information that is reasonable and necessary to determine that the system complies with applicable standards and requirements of the federal safe drinking water act, state law, and rules adopted by the department or by the state board of health.

(3) Following its review of the application, its supporting material, and any information received by the department in its investigation of the application, the department shall issue or deny the operating permit. The department shall act on initial permit applications as expeditiously as possible, and shall in all cases either grant or deny the application within one hundred twenty days of receipt of the application or of any supplemental information required to complete the application. The applicant for a permit shall be entitled to file an appeal in accordance with chapter 34.05 RCW if the department denies the initial or subsequent applications or imposes conditions or requirements upon the operator. Any operator of a public water system that requests a hearing may continue to operate the system until a decision is issued after the hearing.

(4) At the time of initial permit application or at the time of permit renewal the department may impose such permit conditions, requirements for system improvements, and compliance schedules as it determines are reasonable and necessary to ensure that the system will provide a safe and reliable water supply to its users.

(5) Operating permits shall be issued for a term of one year, and shall be renewed annually, unless the operator fails to apply for a new permit or the department finds good cause to deny the application for renewal.

(6) Each application shall be accompanied by an annual fee as follows:

(a) The annual fee for public water supply systems serving fifteen to forty-nine service connections shall be twenty-five dollars.

(b) The annual fee for public water supply systems serving fifty to three thousand three hundred thirty-three service connections shall be based on a uniform per service connection fee of one dollar and fifty cents per service connection.

(c) The annual fee for public water supply systems serving three thousand three hundred thirty-four to fifty-three thousand three hundred thirty-three service connections shall be based on a uniform per service connection fee of one dollar and fifty cents per service connection plus ten cents for each service connection in excess of three thousand three hundred thirty-three service connections.

(d) The annual fee for public water supply systems serving fifty-three thousand three hundred thirty-four or more service connections shall be ten thousand dollars.

(e) In addition to the fees under (a) through (d) of this subsection, the department may charge an additional one-time fee of five dollars for each service connection in a new water system.

(f) Until June 30, 2007, in addition to the fees under (a) through (e) of this subsection, the department may charge municipal water suppliers, as defined in RCW 90.03.015, an additional annual fee equivalent to twenty-five cents for each residential service connection for the purpose of funding the water conservation activities in section 7 of this act.

(7) The department may phase-in the implementation for any group of systems provided the schedule for implementation is established by rule. Prior to implementing the operating permit requirement on water systems having less than five hundred service connections, the department shall form a committee composed of persons operating these systems. The committee shall be composed of the department of health, two operators of water systems having under one hundred connections, two operators of water systems having between one hundred and two hundred service connections, two operators of water systems having between two hundred and three hundred service connections, two operators of water systems having between three hundred and four hundred service connections, two operators of water systems having between four hundred and five hundred service connections, and two county public health officials. The members shall be chosen from different geographic regions of the state. This committee shall develop draft rules to implement this section. The draft rules will then be subject to the rule-making procedures in accordance with chapter 34.05 RCW.

(8) The department shall notify existing public water systems of the requirements of RCW 70.119A.030, 70.119A.060, and this section at least one hundred twenty days prior to the date that an application for a permit is required pursuant to RCW 70.119A.030, 70.119A.060, and this section.

(9) The department shall issue one operating permit to any approved satellite system management agency. Operating permit fees for approved satellite system management agencies shall be one dollar per connection per year for the total number of connections under the management of the approved satellite agency. The department shall define by rule the meaning of the term "satellite system management agency." If a statutory definition of this term exists, then the department shall adopt by rule a definition consistent with the statutory definition.

(10) For purposes of this section, "group A public water system" and "system" mean those water systems with fifteen or more service connections, regardless of the number of people; or a system serving an average of twenty-

five or more people per day for sixty or more days within a calendar year, regardless of the number of service connections.

NEW SECTION. Sec. 19. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed by the House June 5, 2003.

Passed by the Senate June 10, 2003.

Approved by the Governor June 20, 2003.

Filed in Office of Secretary of State June 20, 2003.

CHAPTER 6

[Substitute House Bill 1693]

DIRECT CARE COMPONENT RATE ALLOCATION

AN ACT Relating to direct care component rate allocation; and amending RCW 74.46.508.

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

Sec. 1. RCW 74.46.508 and 1999 c 181 s 2 are each amended to read as follows:

(1)((~~(a)~~)) The department is authorized to increase the direct care component rate allocation calculated under RCW 74.46.506(5) for residents who have unmet exceptional care needs as determined by the department in rule. The department may, by rule, establish criteria, patient categories, and methods of exceptional care payment.

~~((b) The department shall submit a report to the health care and fiscal committees of the legislature by December 12, 2002, that addresses:~~

~~(i) The number of individuals on whose behalf exceptional care payments have been made under this section, their diagnosis, and the amount of the payments; and~~

~~(ii) An assessment as to whether the availability of exceptional care payments resulted in more expedient placement of residents into nursing homes and fewer and/or shorter hospitalizations;))~~

(2)((~~(a)~~)) The department ((shall) may by ((~~January 1, 2000~~)) July 1, 2003, adopt rules and implement a system of exceptional care payments for therapy care.

((~~(i)~~)) (a) Payments may be made on behalf of facility residents who are under age sixty-five, not eligible for medicare, and can achieve significant progress in their functional status if provided with intensive therapy care services.

~~((ii) Payment under this subsection is limited to no more than twelve facilities that have demonstrated excellence in therapy care, based upon criteria defined by rule. A facility accredited by the commission for accreditation of rehabilitation facilities (CARF) shall be deemed to meet the criteria for demonstrated excellence in therapy care. However, CARF accreditation is not required for payment under this subsection.~~

((~~(i)~~)) (b) Payments may be made only after approval of a rehabilitation plan of care for each resident on whose behalf a payment is made under this subsection, and each resident's progress must be periodically monitored.

~~((b) The department shall submit a report to the health care and fiscal committees of the legislature by December 12, 2002, that addresses:~~

~~(i) The number of individuals on whose behalf therapy payments were made under this section, and the amount of the payments; and~~

~~(ii) An assessment as to whether the availability of exceptional care payments for therapy care resulted in substantial progress in residents' functional status, more expedient placement of residents into less expensive settings, or other long term cost savings.~~

~~(3) This section expires June 30, 2003.)~~

Passed by the House June 5, 2003.

Passed by the Senate June 4, 2003.

Approved by the Governor June 20, 2003.

Filed in Office of Secretary of State June 20, 2003.

CHAPTER 7

[Engrossed Substitute House Bill 1782]

CAPITAL PROJECTS FOR LOCAL NONPROFIT YOUTH ORGANIZATIONS

AN ACT Relating to capital projects for local nonprofit youth organizations; adding a new section to chapter 43.63A 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 nonprofit youth organizations provide a variety of services for the youth of Washington state, including many services that enable young people, especially those facing challenging and disadvantaged circumstances, to realize their full potential as productive, responsible, and caring citizens. The legislature also finds that the efficiency and quality of these services may be enhanced by the provision of safe, reliable, and sound facilities, and that, in certain cases, it may be appropriate for the state to assist in the development of these facilities.

NEW SECTION. Sec. 2. A new section is added to chapter 43.63A RCW to read as follows:

(1) The department of community, trade, and economic development must establish a competitive process to solicit proposals for and prioritize projects whose primary objective is to assist nonprofit youth organizations in acquiring, constructing, or rehabilitating facilities used for the delivery of nonresidential services, excluding outdoor athletic fields.

(2) The department of community, trade, and economic development must establish a competitive process to prioritize applications for the assistance as follows:

(a) The department of community, trade, and economic development must conduct a statewide solicitation of project applications from local governments, nonprofit organizations, and other entities, as determined by the department of community, trade, and economic development. The department of community, trade, and economic development must evaluate and rank applications in consultation with a citizen advisory committee using objective criteria. Projects must have a major recreational component, and must have either an educational or social service component. At a minimum, applicants must demonstrate that the requested assistance will increase the efficiency or quality of the services it

provides to youth. The evaluation and ranking process must also include an examination of existing assets that applicants may apply to projects. Grant assistance under this section may not exceed twenty-five percent of the total cost of the project. The nonstate portion of the total project cost may include cash, the value of real property when acquired solely for the purpose of the project, and in-kind contributions.

(b) The department of community, trade, and economic development must submit a prioritized list of recommended projects to the governor and the legislature in the department of community, trade, and economic development's biennial capital budget request beginning with the 2005-2007 biennium and thereafter. The list must include a description of each project, the amount of recommended state funding, and documentation of nonstate funds to be used for the project. The total amount of recommended state funding for projects on a biennial project list must not exceed two million dollars. The department of community, trade, and economic development may provide an additional alternate project list that must not exceed five hundred thousand dollars. The department of community, trade, and economic development may not sign contracts or otherwise financially obligate funds under this section until the legislature has approved a specific list of projects.

(c) In contracts for grants authorized under this section the department of community, trade, and economic development must include provisions that require that capital improvements be held by the grantee for a specified period of time appropriate to the amount of the grant and that facilities be used for the express purpose of the grant. If the grantee is found to be out of compliance with provisions of the contract, the grantee must repay to the state general fund the principal amount of the grant plus interest calculated at the rate of interest on state of Washington general obligation bonds issued most closely to the date of authorization of the grant.

Passed by the House June 4, 2003.

Passed by the Senate June 4, 2003.

Approved by the Governor June 20, 2003.

Filed in Office of Secretary of State June 20, 2003.

CHAPTER 8

[Second Engrossed Substitute House Bill 2151]

PRIORITIZING CAPITAL PROJECTS OF HIGHER EDUCATION INSTITUTIONS

AN ACT Relating to prioritizing proposed capital projects of higher education institutions; adding a new section to chapter 28B.80 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. (1) The legislature finds that a capital investment in higher education facilities is needed over the next several biennia to adequately preserve, modernize, and expand the capacity of the state's public two-year and four-year colleges and universities. This investment is needed to responsibly preserve and restore existing facilities and to provide additional space for new students. Further, the legislature finds that capital appropriations will need to respond to each of these areas of need in a planned, balanced, and

prioritized manner so that access to a quality system of higher education is ensured.

(2) It is the intent of the legislature that a methodology be developed that will guide capital appropriation decisions by rating and individually ranking, in sequential, priority order, all major capital projects proposed by the two-year and four-year public universities and colleges. Further, it is the intent of the legislature that this rating, ranking, and prioritization of capital needs will reflect the state's higher education policies and goals including the comprehensive master plan for higher education as submitted by the higher education coordinating board and as adopted by the legislature.

NEW SECTION. Sec. 2. A new section is added to chapter 28B.80 RCW to read as follows:

(1) Beginning with the 2005-2007 biennial capital budget submittal, the public four-year institutions, in consultation with the council of presidents and the higher education coordinating board, shall prepare a single prioritized individual ranking of the individual projects proposed by the four-year institutions as provided in subsection (2) of this section. The public four-year institutions may aggregate minor works project requests into priority categories without separately ranking each minor project, provided that these aggregated minor works requests are ranked within the overall list. For repairs and improvements to existing facilities and systems, the rating and ranking of individual projects must be based on criteria or factors that include, but are not limited to, the age and condition of buildings or systems, the programmatic suitability of the building or system, and the activity/occupancy level supported by the building or system. For projects creating new space or capacity, the ratings and rankings of projects must be based upon criteria or factors that include, but are not limited to, measuring existing capacity and progress toward meeting increased space utilization levels as determined by the higher education coordinating board.

(2) The single prioritized four-year project list shall be approved by the governing boards of each public four-year institution and shall be submitted to the office of financial management and the higher education coordinating board concurrent with the institution's submittal of their biennial capital budget requests.

(3)(a) The higher education coordinating board, in consultation with the office of financial management and the joint legislative audit and review committee, shall develop common definitions that public four-year institutions and the state board for community and technical colleges shall use in developing their project lists under this section.

(b) As part of its duties under RCW 28B.80.330(4), the higher education coordinating board shall, as part of its biennial budget guidelines, disseminate, by December 1st of each odd-numbered year, the criteria framework, including general definitions, categories, and rating system, to be used by the public four-year institutions in the development of the prioritized four-year project list. The criteria framework shall specify the general priority order of project types based on criteria determined by the board, in consultation with the public four-year institutions.

(c) Under RCW 28B.80.330(4), the public four-year institutions shall submit a preliminary prioritized four-year project list to the higher education coordinating board by August 1st of each even-numbered year.

(d) The state board for community and technical colleges shall, as part of its biennial capital budget request, submit a single prioritized ranking of the individual projects proposed for the community and technical colleges. The state board for community and technical colleges shall submit an outline of the prioritized community and technical college project list to the higher education coordinating board under RCW 28B.80.330(4) by August 1st of each even-numbered year.

(4) The higher education coordinating board, in consultation with the public four-year institutions, shall resolve any disputes or disagreements arising among the four-year institutions concerning the ranking of particular projects. Further, should one or more governing boards of the public four-year institutions fail to approve the prioritized four-year project list as required in this section, or should a prioritized project list not be submitted by the public four-year institutions concurrent with the submittal of their respective biennial capital budget requests as provided in subsection (2) of this section, the higher education coordinating board shall prepare the prioritized four-year institution project list itself.

(5) In developing any rating and ranking of capital projects proposed by the two-year and four-year public universities and colleges, the board:

(a) Shall be provided with available information by the public two-year and four-year institutions as deemed necessary by the board;

(b) May utilize independent services to verify, sample, or evaluate information provided to the board by the two-year and four-year institutions; and

(c) Shall have full access to all data maintained by the office of financial management and the joint legislative audit and review committee concerning the condition of higher education facilities.

(6) Beginning with the 2005-2007 biennial capital budget submittal, the higher education coordinating board shall, in consultation with the state board for community and technical colleges and four-year colleges and universities, submit its capital budget recommendations and the separate two-year and four-year prioritized project lists.

Passed by the House June 4, 2003.

Passed by the Senate June 4, 2003.

Approved by the Governor June 20, 2003.

Filed in Office of Secretary of State June 20, 2003.

CHAPTER 9

[House Bill 2242]

REDEFINING "GENERAL STATE REVENUES"

AN ACT Relating to the statutory definition of general state revenues; and amending RCW 39.42.070.

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

Sec. 1. RCW 39.42.070 and 2002 c 240 s 8 are each amended to read as follows:

(1) On or after the effective date of this act, the treasurer shall compute general state revenues for the three fiscal years immediately preceding such date and shall determine the arithmetic mean thereof. As soon as is practicable after the close of each fiscal year thereafter, he or she shall do likewise. In determining the amount of general state revenues, the treasurer shall include all state money received in the treasury from each and every source whatsoever except: (a) Fees and revenues derived from the ownership or operation of any undertaking, facility or project; (b) moneys received as gifts, grants, donations, aid or assistance or otherwise from the United States or any department, bureau or corporation thereof, or any person, firm or corporation, public or private, when the terms and conditions of such gift, grant, donation, aid or assistance require the application and disbursement of such moneys otherwise than for the general purposes of the state of Washington; (c) moneys to be paid into and received from retirement system funds, and performance bonds and deposits; (d) moneys to be paid into and received from trust funds including but not limited to moneys received from taxes levied for specific purposes and the several permanent and irreducible funds of the state and the moneys derived therefrom but excluding bond redemption funds; (e) proceeds received from the sale of bonds or other evidences of indebtedness. Upon computing general state revenues, the treasurer shall make and file in the office of the secretary of state, a certificate containing the results of such computations. Copies of said certificate shall be sent to each elected official of the state and each member of the legislature. The treasurer shall, at the same time, advise each elected official and each member of the legislature of the current available debt capacity of the state, and may make estimated projections for one or more years concerning debt capacity.

(2) For purposes of this chapter, general state revenues shall also include revenues that are deposited in the general fund under RCW 82.45.180(2) (~~and~~), lottery revenues as provided in RCW 67.70.240(3), revenues paid into the general fund under RCW 84.52.067, and revenues deposited into the student achievement fund and distributed to school districts as provided in RCW 84.52.068.

Passed by the House June 4, 2003.

Passed by the Senate June 5, 2003.

Approved by the Governor June 20, 2003.

Filed in Office of Secretary of State June 20, 2003.

CHAPTER 10

[House Bill 2252]

REDEFINING ELIGIBILITY FOR GENERAL ASSISTANCE

AN ACT Relating to social service programs; and amending RCW 74.04.005.

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

Sec. 1. RCW 74.04.005 and 2000 c 218 s 1 are each amended to read as follows:

For the purposes of this title, unless the context indicates otherwise, the following definitions shall apply:

(1) "Public assistance" or "assistance"—Public aid to persons in need thereof for any cause, including services, medical care, assistance grants, disbursing orders, work relief, general assistance and federal-aid assistance.

(2) "Department"—The department of social and health services.

(3) "County or local office"—The administrative office for one or more counties or designated service areas.

(4) "Director" or "secretary" means the secretary of social and health services.

(5) "Federal-aid assistance"—The specific categories of assistance for which provision is made in any federal law existing or hereafter passed by which payments are made from the federal government to the state in aid or in respect to payment by the state for public assistance rendered to any category of needy persons for which provision for federal funds or aid may from time to time be made, or a federally administered needs-based program.

(6)(a) "General assistance"—Aid to persons in need who:

(i) Are not eligible to receive federal-aid assistance, other than food stamps or food stamp benefits transferred electronically and medical assistance; however, an individual who refuses or fails to cooperate in obtaining federal-aid assistance, without good cause, is not eligible for general assistance;

(ii) Meet one of the following conditions:

(A) Pregnant: PROVIDED, That need is based on the current income and resource requirements of the federal temporary assistance for needy families program; or

(B) Subject to chapter 165, Laws of 1992, incapacitated from gainful employment by reason of bodily or mental infirmity that will likely continue for a minimum of ninety days as determined by the department.

(C) Persons who are unemployable due to alcohol or drug addiction are not eligible for general assistance. Persons receiving general assistance on July 26, 1987, or becoming eligible for such assistance thereafter, due to an alcohol or drug-related incapacity, shall be referred to appropriate assessment, treatment, shelter, or supplemental security income referral services as authorized under chapter 74.50 RCW. Referrals shall be made at the time of application or at the time of eligibility review. Alcoholic and drug addicted clients who are receiving general assistance on July 26, 1987, may remain on general assistance if they otherwise retain their eligibility until they are assessed for services under chapter 74.50 RCW. Subsection (6)(a)(ii)(B) of this section shall not be construed to prohibit the department from granting general assistance benefits to alcoholics and drug addicts who are incapacitated due to other physical or mental conditions that meet the eligibility criteria for the general assistance program;

(iii) Are citizens or aliens lawfully admitted for permanent residence or otherwise residing in the United States under color of law; and

(iv) Have furnished the department their social security account number. If the social security account number cannot be furnished because it has not been issued or is not known, an application for a number shall be made prior to authorization of assistance, and the social security number shall be provided to the department upon receipt.

(b) Notwithstanding the provisions of subsection (6)(a)(i), (ii), and (c) of this section, general assistance shall be provided to the following recipients of federal-aid assistance:

(i) Recipients of supplemental security income whose need, as defined in this section, is not met by such supplemental security income grant because of separation from a spouse; or

(ii) To the extent authorized by the legislature in the biennial appropriations act, to recipients of temporary assistance for needy families whose needs are not being met because of a temporary reduction in monthly income below the entitled benefit payment level caused by loss or reduction of wages or unemployment compensation benefits or some other unforeseen circumstances. The amount of general assistance authorized shall not exceed the difference between the entitled benefit payment level and the amount of income actually received.

(c) General assistance shall be provided only to persons who are not members of assistance units receiving federal aid assistance, except as provided in subsection (6)(a)(ii)(A) and (b) of this section, and will accept available services which can reasonably be expected to enable the person to work or reduce the need for assistance unless there is good cause to refuse. Failure to accept such services shall result in termination until the person agrees to cooperate in accepting such services and subject to the following maximum periods of ineligibility after reapplication:

(i) First failure: One week;

(ii) Second failure within six months: One month;

(iii) Third and subsequent failure within one year: Two months.

(d) Persons found eligible for general assistance based on incapacity from gainful employment may, if otherwise eligible, receive general assistance pending application for federal supplemental security income benefits. Any general assistance that is subsequently duplicated by the person's receipt of supplemental security income for the same period shall be considered a debt due the state and shall by operation of law be subject to recovery through all available legal remedies.

(e) The department shall adopt by rule medical criteria for general assistance eligibility to ensure that eligibility decisions are consistent with statutory requirements and are based on clear, objective medical information.

(f) The process implementing the medical criteria shall involve consideration of opinions of the treating or consulting physicians or health care professionals regarding incapacity, and any eligibility decision which rejects uncontroverted medical opinion must set forth clear and convincing reasons for doing so.

(g) Recipients of general assistance based upon a finding of incapacity from gainful employment who remain otherwise eligible shall ~~((not))~~ have their benefits ~~((terminated absent a clear showing of))~~ discontinued unless the recipient demonstrates no material improvement in their medical or mental condition ((or)). The department may discontinue benefits when there was specific error in the prior determination that found the recipient eligible by reason of incapacitation. Recipients of general assistance based upon pregnancy who relinquish their child for adoption, remain otherwise eligible, and are not eligible to receive benefits under the federal temporary assistance for needy families program shall not have their benefits terminated until the end of the month in which the period of six weeks following the birth of the recipient's child falls. Recipients of the federal temporary assistance for needy families

program who lose their eligibility solely because of the birth and relinquishment of the qualifying child may receive general assistance through the end of the month in which the period of six weeks following the birth of the child falls.

(h) No person may be considered an eligible individual for general assistance with respect to any month if during that month the person:

(i) Is fleeing to avoid prosecution of, or to avoid custody or confinement for conviction of, a felony, or an attempt to commit a felony, under the laws of the state of Washington or the place from which the person flees; or

(ii) Is violating a condition of probation, community supervision, or parole imposed under federal or state law for a felony or gross misdemeanor conviction.

(7) "Applicant"—Any person who has made a request, or on behalf of whom a request has been made, to any county or local office for assistance.

(8) "Recipient"—Any person receiving assistance and in addition those dependents whose needs are included in the recipient's assistance.

(9) "Standards of assistance"—The level of income required by an applicant or recipient to maintain a level of living specified by the department.

(10) "Resource"—Any asset, tangible or intangible, owned by or available to the applicant at the time of application, which can be applied toward meeting the applicant's need, either directly or by conversion into money or its equivalent. The department may by rule designate resources that an applicant may retain and not be ineligible for public assistance because of such resources. Exempt resources shall include, but are not limited to:

(a) A home that an applicant, recipient, or their dependents is living in, including the surrounding property;

(b) Household furnishings and personal effects;

(c) A motor vehicle, other than a motor home, used and useful having an equity value not to exceed five thousand dollars;

(d) A motor vehicle necessary to transport a physically disabled household member. This exclusion is limited to one vehicle per physically disabled person;

(e) All other resources, including any excess of values exempted, not to exceed one thousand dollars or other limit as set by the department, to be consistent with limitations on resources and exemptions necessary for federal aid assistance. The department shall also allow recipients of temporary assistance for needy families to exempt savings accounts with combined balances of up to an additional three thousand dollars;

(f) Applicants for or recipients of general assistance shall have their eligibility based on resource limitations consistent with the temporary assistance for needy families program rules adopted by the department; and

(g) If an applicant for or recipient of public assistance possesses property and belongings in excess of the ceiling value, such value shall be used in determining the need of the applicant or recipient, except that: (i) The department may exempt resources or income when the income and resources are determined necessary to the applicant's or recipient's restoration to independence, to decrease the need for public assistance, or to aid in rehabilitating the applicant or recipient or a dependent of the applicant or recipient; and (ii) the department may provide grant assistance for a period not to exceed nine months from the date the agreement is signed pursuant to this section to persons who are otherwise ineligible because of excess real property

owned by such persons when they are making a good faith effort to dispose of that property: PROVIDED, That:

(A) The applicant or recipient signs an agreement to repay the lesser of the amount of aid received or the net proceeds of such sale;

(B) If the owner of the excess property ceases to make good faith efforts to sell the property, the entire amount of assistance may become an overpayment and a debt due the state and may be recovered pursuant to RCW 43.20B.630;

(C) Applicants and recipients are advised of their right to a fair hearing and afforded the opportunity to challenge a decision that good faith efforts to sell have ceased, prior to assessment of an overpayment under this section; and

(D) At the time assistance is authorized, the department files a lien without a sum certain on the specific property.

(11) "Income"—(a) All appreciable gains in real or personal property (cash or kind) or other assets, which are received by or become available for use and enjoyment by an applicant or recipient during the month of application or after applying for or receiving public assistance. The department may by rule and regulation exempt income received by an applicant for or recipient of public assistance which can be used by him or her to decrease his or her need for public assistance or to aid in rehabilitating him or her or his or her dependents, but such exemption shall not, unless otherwise provided in this title, exceed the exemptions of resources granted under this chapter to an applicant for public assistance. In addition, for cash assistance the department may disregard income pursuant to RCW 74.08A.230 and 74.12.350.

(b) If, under applicable federal requirements, the state has the option of considering property in the form of lump sum compensatory awards or related settlements received by an applicant or recipient as income or as a resource, the department shall consider such property to be a resource.

(12) "Need"—The difference between the applicant's or recipient's standards of assistance for himself or herself and the dependent members of his or her family, as measured by the standards of the department, and value of all nonexempt resources and nonexempt income received by or available to the applicant or recipient and the dependent members of his or her family.

(13) For purposes of determining eligibility for public assistance and participation levels in the cost of medical care, the department shall exempt restitution payments made to people of Japanese and Aleut ancestry pursuant to the Civil Liberties Act of 1988 and the Aleutian and Pribilof Island Restitution Act passed by congress, P.L. 100-383, including all income and resources derived therefrom.

(14) In the construction of words and phrases used in this title, the singular number shall include the plural, the masculine gender shall include both the feminine and neuter genders and the present tense shall include the past and future tenses, unless the context thereof shall clearly indicate to the contrary.

Passed by the House June 6, 2003.

Passed by the Senate June 10, 2003.

Approved by the Governor June 20, 2003.

Filed in Office of Secretary of State June 20, 2003.

CHAPTER 11

[Engrossed House Bill 2254]

RETIREMENT SYSTEM CONTRIBUTION RATES

AN ACT Relating to actuarial funding of the state retirement systems; amending RCW 41.45.035 and 41.45.054; reenacting and amending RCW 41.45.070; providing an effective date; and declaring an emergency.

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

Sec. 1. RCW 41.45.035 and 2001 2nd sp.s. c 11 s 6 are each amended to read as follows:

(1) Beginning July 1, 2001, the following long-term economic assumptions shall be used by the state actuary for the purposes of RCW 41.45.030:

(a) The growth in inflation assumption shall be 3.5 percent;

(b) The growth in salaries assumption, exclusive of merit or longevity increases, shall be 4.5 percent;

(c) The investment rate of return assumption shall be 8 percent; and

(d) The growth in system membership assumption shall be 1.25 percent for the public employees' retirement system, the school employees' retirement system, and the law enforcement officers' and fire fighters' retirement system. The assumption shall be .90 percent for the teachers' retirement system.

(2) Beginning with actuarial studies done after July 1, ~~((2004))~~ 2003, changes to plan asset values that vary from the long-term investment rate of return assumption shall be recognized over a ~~((four-year))~~ period that varies up to eight years depending on the magnitude of the deviation of each year's investment rate of return relative to the long-term rate of return assumption. Beginning April 1, 2004, the council, by affirmative vote of four councilmembers, may adopt changes to this asset value smoothing technique. Any changes adopted by the council shall be subject to revision by the legislature.

Sec. 2. RCW 41.45.054 and 2002 c 7 s 1 are each amended to read as follows:

The basic employer and state contribution rates and plan 2 member contribution rates are changed to reflect the 2000 actuarial valuation, incorporating the 1995-2000 actuarial experience study conducted by the office of the state actuary. The results of the ~~((2000))~~ 2001 actuarial valuation for the public employees' retirement system, the teachers' retirement system, and the school employees' retirement system shall be ~~((adjusted to reflect an April 1, 2002, implementation date:))~~ restated as a result of the new asset smoothing method adopted in RCW 41.45.035, and suspension of payments on the unfunded liability in the public employees' retirement system and teachers' retirement system, to collect the following contribution rates:

(1) Beginning ~~((April 1, 2002))~~ July 1, 2003, the following employer contribution rates shall be charged:

(a) ~~((1.10))~~ 1.18 percent for the public employees' retirement system; and

(b) ~~((2.64))~~ 3.03 percent for the law enforcement officers' and fire fighters' retirement system plan 2.

(2) Beginning ~~((April 1, 2002))~~ July 1, 2003, the basic state contribution rate for the law enforcement officers' and fire fighters' retirement system plan 2 shall be ~~((1.75))~~ 2.02 percent.

(3) Beginning ~~((April 1, 2002))~~ September 1, 2003, the following employer contribution rates shall be charged:

- (a) ~~((0.96))~~ 0.84 percent for the school employees' retirement system; and
- (b) ~~((1.05))~~ 1.17 percent for the teachers' retirement system.

(4) Beginning ~~((April 1, 2002))~~ July 1, 2003, the following member contribution rates shall be charged:

- (a) ~~((0.65))~~ 1.18 percent for the public employees' retirement system plan 2; and
- (b) ~~((4.39))~~ 5.05 percent for the law enforcement officers' and fire fighters' retirement system plan 2.

(5) Beginning ~~((April 1, 2002))~~ September 1, 2003, the following member contribution rates shall be charged:

- (a) ~~((0.35))~~ 0.84 percent for the school employees' retirement system plan 2; and
- (b) ~~((0.15))~~ 0.87 percent for the teachers' retirement system plan 2.

(6) The contribution rates in this section shall be collected through ~~((June 30, 2003))~~ June 30, 2005, for the public employees' retirement system and the law enforcement officers' and fire fighters' retirement system, and August 31st, 2005, for the school employees' retirement system and the teachers' retirement system.

(7) The July 1, 2003, contribution rate changes provided in this section shall be implemented notwithstanding the thirty-day advanced notice provisions of RCW 41.45.067.

Sec. 3. RCW 41.45.070 and 2001 2nd sp.s. c 11 s 16 and 2001 2nd sp.s. c 11 s 15 are each reenacted and amended to read as follows:

(1) In addition to the basic employer contribution rate established in RCW 41.45.060 or ~~((41.45.053))~~ 41.45.054, the department shall also charge employers of public employees' retirement system, teachers' retirement system, school employees' 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. Except as provided in subsections (6) and (7) of this section, 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) In addition to the basic state contribution rate established in RCW 41.45.060 or ~~((41.45.053))~~ 41.45.054 for the law enforcement officers' and fire fighters' retirement system plan 2, 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 plan 2. Except as provided in subsection (6) of this section, 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 1, the teachers' retirement system plan 1, 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 2 and plan 3, the teachers' retirement system plan 2 and plan 3, the school employees' retirement system plan 2 and plan 3, or the law enforcement officers' and fire fighters' retirement system plan 2, shall be calculated as the level percentage of all members' pay needed to fund the cost of the benefit, as calculated under RCW 41.45.060, 41.45.061, or 41.45.067.

(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 1 and the teachers' retirement system plan 1 shall be calculated as the level percentage of pay needed to fund the cost of the automatic adjustments not later than June 30, 2024.

(6) A supplemental rate shall not be charged to pay for the cost of additional benefits granted to members pursuant to chapter 340, Laws of 1998.

(7) A supplemental rate shall not be charged to pay for the cost of additional benefits granted to members pursuant to chapter 41.31A RCW; section 309, chapter 341, Laws of 1998; or section 701, chapter 341, Laws of 1998.

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 takes effect July 1, 2003.

Passed by the House June 4, 2003.

Passed by the Senate June 4, 2003.

Approved by the Governor June 20, 2003.

Filed in Office of Secretary of State June 20, 2003.

CHAPTER 12

[House Bill 2266]

WASHINGTON STATE LEAVE SHARING PROGRAM

AN ACT Relating to leave sharing; amending RCW 41.04.655, 41.04.660, and 41.04.665; and declaring an emergency.

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

Sec. 1. RCW 41.04.655 and 1990 c 33 s 569 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.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) "Program" means the leave sharing program established in RCW 41.04.660.

(3) "Service in the uniformed services" means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training,

inactive duty training, full-time national guard duty including state-ordered active duty, and a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duty.

(4) "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.)~~ (5) "Uniformed services" means the armed forces, the army national guard, and the air national guard of any state, territory, commonwealth, possession, or district when engaged in active duty for training, inactive duty training, full-time national guard duty, or state active duty, the commissioned corps of the public health service, the coast guard, and any other category of persons designated by the president of the United States in time of war or national emergency.

Sec. 2. RCW 41.04.660 and 1996 c 176 s 2 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 leave, sick leave, or personal holidays, 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, or who has been called to service in the uniformed services, which has caused or is likely to cause the employee to take leave without pay or terminate his or her employment.

Sec. 3. RCW 41.04.665 and 1999 c 25 s 1 are each amended to read as follows:

(1) An agency head may permit an employee to receive leave under this section if:

(a)(i) 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))~~; or

(ii) The employee has been called to service in the uniformed services;

(b) The illness, injury, impairment, condition, or call to service has caused, or is likely to cause, the employee to:

(i) Go on leave without pay status; or

(ii) Terminate state employment;

~~((b))~~ (c) The employee's absence and the use of shared leave are justified;

~~((e))~~ (d) The employee has depleted or will shortly deplete his or her:

(i) Annual leave and sick leave reserves if he or she qualifies under (a)(i) of this subsection; or

(ii) Annual leave and paid military leave allowed under RCW 38.40.060 if he or she qualifies under (a)(ii) of this subsection;

~~((d))~~ (e) The employee has abided by agency rules regarding:

(i) Sick leave use if he or she qualifies under (a)(i) of this subsection; or

(ii) Military leave if he or she qualifies under (a)(ii) of this subsection; and

~~((e))~~ (f) The employee has diligently pursued and been found to be ineligible for benefits under chapter 51.32 RCW if he or she qualifies under (a)(i) of this subsection.

(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 may transfer annual leave, sick leave, and his or her personal holiday, as follows:

(a) 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. For purposes of this subsection (3)(a), annual leave does not accrue if the employee receives compensation in lieu of accumulating a balance of annual leave.

(b) An employee may transfer a specified amount of sick leave to an employee requesting shared leave only when the donating employee retains a minimum of ~~((four hundred eighty))~~ one hundred seventy-six hours of sick leave after the transfer. ~~((In no event may such an employee request a transfer of more than six days of sick leave during any twelve-month period.))~~

(c) An employee may transfer, under the provisions of this section relating to the transfer of leave, all or part of his or her personal holiday, as that term is defined under RCW 1.16.050, or as such holidays are provided to employees by agreement with a school district's board of directors if the leave transferred under this subsection does not exceed the amount of time provided for personal holidays under RCW 1.16.050.

(4) An employee of an institution of higher education under RCW 28B.10.016, 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))~~ twenty-two 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))~~ twenty-two 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.400.300(2) or 28A.310.240(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.

(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.

(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 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.

(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.

(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.

(10) An employee who uses leave that is transferred to him or her under this section may not be required to repay the value of the leave that he or she used.

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 takes effect immediately.

Passed by the House June 4, 2003.

Passed by the Senate June 5, 2003.

Approved by the Governor June 20, 2003.

Filed in Office of Secretary of State June 20, 2003.

CHAPTER 13

[Engrossed House Bill 2269]

STATE REVENUE ENHANCEMENT

AN ACT Relating to increasing revenue; amending RCW 63.29.020, 63.29.050, 63.29.060, 63.29.070, 63.29.100, 63.29.120, 63.29.140, 82.32.045, 82.23B.020, 82.27.060, 82.04.180, 82.32.140, 82.32.090, and 82.32.020; adding a new section to chapter 82.32 RCW; creating a new section; prescribing penalties; providing effective dates; and declaring an emergency.

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

Sec. 1. RCW 63.29.020 and 1992 c 122 s 1 are each amended to read as follows:

(1) Except as otherwise provided by this chapter, all intangible property, including any income or increment derived therefrom, less any lawful charges, that is held, issued, or owing in the ordinary course of the holder's business and has remained unclaimed by the owner for more than (~~(five)~~) three years after it became payable or distributable is presumed abandoned.

(2) Property, with the exception of unredeemed Washington state lottery tickets and unpresented winning parimutuel tickets, is payable and distributable for the purpose of this chapter notwithstanding the owner's failure to make demand or to present any instrument or document required to receive payment.

(3) This chapter does not apply to claims drafts issued by insurance companies representing offers to settle claims unliquidated in amount or settled by subsequent drafts or other means.

(4) This chapter does not apply to property covered by chapter 63.26 RCW.

(5) This chapter does not apply to used clothing, umbrellas, bags, luggage, or other used personal effects if such property is disposed of by the holder as follows:

(a) In the case of personal effects of negligible value, the property is destroyed; or

(b) The property is donated to a bona fide charity.

Sec. 2. RCW 63.29.050 and 1983 c 179 s 5 are each amended to read as follows:

(1) Any sum payable on a check, draft, or similar instrument, except those subject to RCW 63.29.040, on which a banking or financial organization is directly liable, including a cashier's check and a certified check, which has been outstanding for more than (~~(five)~~) three years after it was payable or after its issuance if payable on demand, is presumed abandoned, unless the owner, within (~~(five)~~) three years, has communicated in writing with the banking or financial organization concerning it or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee thereof.

(2) A holder may not deduct from the amount of any instrument subject to this section any charge imposed by reason of the failure to present the instrument for payment unless there is a valid and enforceable written contract between the holder and the owner of the instrument pursuant to which the holder may impose a charge, and the holder regularly imposes such charges and does not regularly reverse or otherwise cancel them.

Sec. 3. RCW 63.29.060 and 1983 c 179 s 6 are each amended to read as follows:

(1) Any demand, savings, or matured time deposit with a banking or financial organization, including a deposit that is automatically renewable, and any funds paid toward the purchase of a share, a mutual investment certificate, or any other interest in a banking or financial organization is presumed abandoned unless the owner, within (~~(five)~~) three years, has:

(a) In the case of a deposit, increased or decreased its amount or presented the passbook or other similar evidence of the deposit for the crediting of interest;

(b) Communicated in writing with the banking or financial organization concerning the property;

(c) Otherwise indicated an interest in the property as evidenced by a memorandum or other record on file prepared by an employee of the banking or financial organization;

(d) Owned other property to which subsection (1)(a), (b), or (c) of this section applies and if the banking or financial organization communicates in writing with the owner with regard to the property that would otherwise be presumed abandoned under this subsection at the address to which communications regarding the other property regularly are sent; or

(e) Had another relationship with the banking or financial organization concerning which the owner has:

(i) In the case of a deposit, increased or decreased the amount of the deposit or presented the passbook or other similar evidence of the deposit for the crediting of interest;

(ii) Communicated in writing with the banking or financial organization; or

(iii) Otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the banking or financial organization and if the banking or financial organization communicates in writing with the owner with regard to the property that would otherwise be abandoned under this subsection at the address to which communications regarding the other relationship regularly are sent.

(2) For purposes of subsection (1) of this section property includes interest and dividends.

(3) This chapter shall not apply to deposits made by a guardian or decedent's personal representative with a banking organization when the deposit is subject to withdrawal only upon the order of the court in the guardianship or estate proceeding.

(4) A holder may not impose with respect to property described in subsection (1) of this section any charge due to dormancy or inactivity or cease payment of interest unless:

(a) There is an enforceable written contract between the holder and the owner of the property pursuant to which the holder may impose a charge or cease payment of interest;

(b) For property in excess of ten dollars, the holder, no more than three months before the initial imposition of those charges or cessation of interest, has given written notice to the owner of the amount of those charges at the last known address of the owner stating that those charges will be imposed or that interest will cease, but the notice provided in this section need not be given with respect to charges imposed or interest ceased before June 30, 1983; and

(c) The holder regularly imposes such charges or ceases payment of interest and does not regularly reverse or otherwise cancel them or retroactively credit interest with respect to the property.

(5) Any property described in subsection (1) of this section that is automatically renewable is matured for purposes of subsection (1) of this section upon the expiration of its initial time period, or after one year if the initial period is less than one year, but in the case of any renewal to which the owner consents at or about the time of renewal by communicating in writing with the banking or financial organization or otherwise indicating consent as evidenced by a memorandum or other record on file prepared by an employee of the organization, the property is matured upon the expiration of the last time period

for which consent was given. If, at the time provided for delivery in RCW 63.29.190, a penalty or forfeiture in the payment of interest would result from the delivery of the property, the time for delivery is extended until the time when no penalty or forfeiture would result.

Sec. 4. RCW 63.29.070 and 1983 c 179 s 7 are each amended to read as follows:

(1) Funds held or owing under any life or endowment insurance policy or annuity contract that has matured or terminated are presumed abandoned if unclaimed for more than ~~((five))~~ three years after the funds became due and payable as established from the records of the insurance company holding or owing the funds, but property described in subsection (3)(b) of this section is presumed abandoned if unclaimed for more than two years.

(2) If a person other than the insured or annuitant is entitled to the funds and an address of the person is not known to the company or it is not definite and certain from the records of the company who is entitled to the funds, it is presumed that the last known address of the person entitled to the funds is the same as the last known address of the insured or annuitant according to the records of the company.

(3) For purposes of this chapter, a life or endowment insurance policy or annuity contract not matured by actual proof of the death of the insured or annuitant according to the records of the company is matured and the proceeds due and payable if:

(a) The company knows that the insured or annuitant has died; or

(b)(i) The insured has attained, or would have attained if he were living, the limiting age under the mortality table on which the reserve is based;

(ii) The policy was in force at the time the insured attained, or would have attained, the limiting age specified in subparagraph (i) of this subsection; and

(iii) Neither the insured nor any other person appearing to have an interest in the policy within the preceding two years, according to the records of the company, has assigned, readjusted, or paid premiums on the policy, subjected the policy to a loan, corresponded in writing with the company concerning the policy, or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the company.

(4) For purposes of this chapter, the application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance policy does not prevent a policy from being matured or terminated under subsection (1) of this section if the insured has died or the insured or the beneficiaries of the policy otherwise have become entitled to the proceeds thereof before the depletion of the cash surrender value of a policy by the application of those provisions.

(5) If the laws of this state or the terms of the life insurance policy require the company to give notice to the insured or owner that an automatic premium loan provision or other nonforfeiture provision has been exercised and the notice, given to an insured or owner whose last known address according to the records of the company is in this state, is undeliverable, the company shall make a reasonable search to ascertain the policyholder's correct address to which the notice must be mailed.

(6) Notwithstanding any other provision of law, if the company learns of the death of the insured or annuitant and the beneficiary has not communicated with

the insurer within four months after the death, the company shall take reasonable steps to pay the proceeds to the beneficiary.

(7) Commencing two years after June 30, 1983, every change of beneficiary form issued by an insurance company under any life or endowment insurance policy or annuity contract to an insured or owner who is a resident of this state must request the following information:

- (a) The name of each beneficiary, or if a class of beneficiaries is named, the name of each current beneficiary in the class;
- (b) The address of each beneficiary; and
- (c) The relationship of each beneficiary to the insured.

Sec. 5. RCW 63.29.100 and 1996 c 45 s 1 are each amended to read as follows:

(1) Except as provided in subsections (2) and (5) of this section, stock or other intangible ownership interest in a business association, the existence of which is evidenced by records available to the association, is presumed abandoned and, with respect to the interest, the association is the holder, if a dividend, distribution, or other sum payable as a result of the interest has remained unclaimed by the owner for ~~((five))~~ three years and the owner within ~~((five))~~ three years has not:

- (a) Communicated in writing with the association regarding the interest or a dividend, distribution, or other sum payable as a result of the interest; or
- (b) Otherwise communicated with the association regarding the interest or a dividend, distribution, or other sum payable as a result of the interest, as evidenced by a memorandum or other record on file with the association prepared by an employee of the association.

(2) At the expiration of a ~~((five-year))~~ three-year period following the failure of the owner to claim a dividend, distribution, or other sum payable to the owner as a result of the interest, the interest is not presumed abandoned unless there have been at least five dividends, distributions, or other sums paid during the period, none of which has been claimed by the owner. If five dividends, distributions, or other sums are paid during the ~~((five-year))~~ three-year period, the period leading to a presumption of abandonment commences on the date payment of the first such unclaimed dividend, distribution, or other sum became due and payable. If five dividends, distributions, or other sums are not paid during the presumptive period, the period continues to run until there have been five dividends, distributions, or other sums that have not been claimed by the owner.

(3) The running of the ~~((five-year))~~ three-year period of abandonment ceases immediately upon the occurrence of a communication referred to in subsection (1) of this section. If any future dividend, distribution, or other sum payable to the owner as a result of the interest is subsequently not claimed by the owner, a new period of abandonment commences and relates back to the time a subsequent dividend, distribution, or other sum became due and payable.

(4) At the time any interest is presumed abandoned under this section, any dividend, distribution, or other sum then held for or owing to the owner as a result of the interest, and not previously presumed abandoned, is presumed abandoned.

(5) This chapter shall not apply to any stock or other intangible ownership interest enrolled in a plan that provides for the automatic reinvestment of dividends, distributions, or other sums payable as a result of the interest unless:

(a) The records available to the administrator of the plan show, with respect to any intangible ownership interest not enrolled in the reinvestment plan, that the owner has not within (~~five~~) three years communicated in any manner described in subsection (1) of this section; or

(b) (~~Five~~) Three years have elapsed since the location of the owner became unknown to the association, as evidenced by the return of official shareholder notifications or communications by the postal service as undeliverable, and the owner has not within those (~~five~~) three years communicated in any manner described in subsection (1) of this section. The (~~five-year~~) three-year period from the return of official shareholder notifications or communications shall commence from the earlier of the return of the second such mailing or the date the holder discontinues mailings to the shareholder.

Sec. 6. RCW 63.29.120 and 1983 c 179 s 12 are each amended to read as follows:

(1) Intangible property and any income or increment derived therefrom held in a fiduciary capacity for the benefit of another person is presumed abandoned unless the owner, within (~~five~~) three years after it has become payable or distributable, has increased or decreased the principal, accepted payment of principal or income, communicated concerning the property, or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by the fiduciary.

(2) Funds in an individual retirement account or a retirement plan for self-employed individuals or similar account or plan established pursuant to the internal revenue laws of the United States are not payable or distributable within the meaning of subsection (1) of this section unless, under the terms of the account or plan, distribution of all or part of the funds would then be mandatory.

(3) For the purpose of this section, a person who holds property as an agent for a business association is deemed to hold the property in a fiduciary capacity for that business association alone, unless the agreement between him and the business association provides otherwise.

(4) For the purposes of this chapter, a person who is deemed to hold property in a fiduciary capacity for a business association alone is the holder of the property only insofar as the interest of the business association in the property is concerned, and the business association is the holder of the property insofar as the interest of any other person in the property is concerned.

Sec. 7. RCW 63.29.140 and 1983 c 179 s 14 are each amended to read as follows:

(1) A gift certificate or a credit memo issued in the ordinary course of an issuer's business which remains unclaimed by the owner for more than (~~five~~) three years after becoming payable or distributable is presumed abandoned.

(2) In the case of a gift certificate, the amount presumed abandoned is the price paid by the purchaser for the gift certificate. In the case of a credit memo, the amount presumed abandoned is the amount credited to the recipient of the memo.

Sec. 8. RCW 82.32.045 and 1999 c 357 s 1 are each amended to read as follows:

(1) Except as otherwise provided in this chapter, payments of the taxes imposed under chapters 82.04, 82.08, 82.12, 82.14, and 82.16 RCW, along with reports and returns on forms prescribed by the department, are due monthly within ~~((twenty-five))~~ twenty days after the end of the month in which the taxable activities occur.

(2) The department of revenue may relieve any taxpayer or class of taxpayers from the obligation of remitting monthly and may require the return to cover other longer reporting periods, but in no event may returns be filed for a period greater than one year. For these taxpayers, tax payments are due on or before the last day of the month next succeeding the end of the period covered by the return.

(3) The department of revenue may also require verified annual returns from any taxpayer, setting forth such additional information as it may deem necessary to correctly determine tax liability.

(4) Notwithstanding subsections (1) and (2) of this section, the department may relieve any person of the requirement to file returns if the following conditions are met:

(a) The person's value of products, gross proceeds of sales, or gross income of the business, from all business activities taxable under chapter 82.04 RCW, is less than twenty-eight thousand dollars per year;

(b) The person's gross income of the business from all activities taxable under chapter 82.16 RCW is less than twenty-four thousand dollars per year; and

(c) The person is not required to collect or pay to the department of revenue any other tax or fee which the department is authorized to collect.

Sec. 9. RCW 82.23B.020 and 2000 c 69 s 25 are each amended to read as follows:

(1) An oil spill response tax is imposed on the privilege of receiving crude oil or petroleum products at a marine terminal within this state from a waterborne vessel or barge operating on the navigable waters of this state. The tax imposed in this section is levied upon the owner of the crude oil or petroleum products immediately after receipt of the same into the storage tanks of a marine terminal from a waterborne vessel or barge at the rate of one cent per barrel of crude oil or petroleum product received.

(2) In addition to the tax imposed in subsection (1) of this section, an oil spill administration tax is imposed on the privilege of receiving crude oil or petroleum products at a marine terminal within this state from a waterborne vessel or barge operating on the navigable waters of this state. The tax imposed in this section is levied upon the owner of the crude oil or petroleum products immediately after receipt of the same into the storage tanks of a marine terminal from a waterborne vessel or barge at the rate of four cents per barrel of crude oil or petroleum product.

(3) The taxes imposed by this chapter shall be collected by the marine terminal operator from the taxpayer. If any person charged with collecting the taxes fails to bill the taxpayer for the taxes, or in the alternative has not notified the taxpayer in writing of the imposition of the taxes, or having collected the taxes, fails to pay them to the department in the manner prescribed by this chapter, whether such failure is the result of the person's own acts or the result of

acts or conditions beyond the person's control, he or she shall, nevertheless, be personally liable to the state for the amount of the taxes. Payment of the taxes by the owner to a marine terminal operator shall relieve the owner from further liability for the taxes.

(4) Taxes collected under this chapter shall be held in trust until paid to the department. Any person collecting the taxes who appropriates or converts the taxes collected shall be guilty of a gross misdemeanor if the money required to be collected is not available for payment on the date payment is due. The taxes required by this chapter to be collected shall be stated separately from other charges made by the marine terminal operator in any invoice or other statement of account provided to the taxpayer.

(5) If a taxpayer fails to pay the taxes imposed by this chapter to the person charged with collection of the taxes and the person charged with collection fails to pay the taxes to the department, the department may, in its discretion, proceed directly against the taxpayer for collection of the taxes.

(6) The taxes shall be due from the marine terminal operator, along with reports and returns on forms prescribed by the department, within (~~twenty-five~~) twenty days after the end of the month in which the taxable activity occurs.

(7) The amount of taxes, until paid by the taxpayer to the marine terminal operator or to the department, shall constitute a debt from the taxpayer to the marine terminal operator. Any person required to collect the taxes under this chapter who, with intent to violate the provisions of this chapter, fails or refuses to do so as required and any taxpayer who refuses to pay any taxes due under this chapter, shall be guilty of a misdemeanor as provided in chapter 9A.20 RCW.

(8) Upon prior approval of the department, the taxpayer may pay the taxes imposed by this chapter directly to the department. The department shall give its approval for direct payment under this section whenever it appears, in the department's judgment, that direct payment will enhance the administration of the taxes imposed under this chapter. The department shall provide by rule for the issuance of a direct payment certificate to any taxpayer qualifying for direct payment of the taxes. Good faith acceptance of a direct payment certificate by a terminal operator shall relieve the marine terminal operator from any liability for the collection or payment of the taxes imposed under this chapter.

(9) All receipts from the tax imposed in subsection (1) of this section shall be deposited into the state oil spill response account. All receipts from the tax imposed in subsection (2) of this section shall be deposited into the oil spill prevention account.

(10) Within forty-five days after the end of each calendar quarter, the office of financial management shall determine the balance of the oil spill response account as of the last day of that calendar quarter. Balance determinations by the office of financial management under this section are final and shall not be used to challenge the validity of any tax imposed under this chapter. The office of financial management shall promptly notify the departments of revenue and ecology of the account balance once a determination is made. For each subsequent calendar quarter, the tax imposed by subsection (1) of this section shall be imposed during the entire calendar quarter unless:

(a) Tax was imposed under subsection (1) of this section during the immediately preceding calendar quarter, and the most recent quarterly balance is more than nine million dollars; or

(b) Tax was not imposed under subsection (1) of this section during the immediately preceding calendar quarter, and the most recent quarterly balance is more than eight million dollars.

Sec. 10. RCW 82.27.060 and 1990 c 214 s 1 are each amended to read as follows:

The taxes levied by this chapter shall be due for payment monthly and remittance therefor shall be made within ~~((twenty-five))~~ twenty days after the end of the month in which the taxable activity occurs. The taxpayer on or before the due date shall make out a signed return, setting out such information as the department of revenue may require, including the gross measure of the tax, any deductions, credits, or exemptions claimed, and the amount of tax due for the preceding monthly period, which amount shall be transmitted to the department along with the return.

The department may relieve any taxpayer from the obligation of filing a monthly return and may require the return to cover other periods, but in no event may periodic returns be filed for a period greater than one year. In such cases tax payments are due on or before the last day of the month next succeeding the end of the period covered by the return.

Sec. 11. RCW 82.04.180 and 1985 c 414 s 6 are each amended to read as follows:

(1) "Successor" means:

(a) Any person to whom a taxpayer quitting, selling out, exchanging, or disposing of a business sells or otherwise conveys, directly or indirectly, in bulk and not in the ordinary course of the taxpayer's business, ~~((a major part of the materials, supplies, merchandise, inventory, fixtures, or equipment))~~ more than fifty percent of the fair market value of either the (i) tangible assets or (ii) intangible assets of the taxpayer; or

(b) A surviving corporation of a statutory merger.

(2) Any person obligated to fulfill the terms of a contract shall be deemed a successor to any contractor defaulting in the performance of any contract as to which such person is a surety or guarantor.

Sec. 12. RCW 82.32.140 and 1985 c 414 s 7 are each amended to read as follows:

(1) Whenever any taxpayer quits business, or sells out, exchanges, or otherwise disposes of ~~((his business or his stock of goods))~~ more than fifty percent of the fair market value of either its tangible or intangible assets, any tax payable hereunder shall become immediately due and payable, and such taxpayer shall, within ten days thereafter, make a return and pay the tax due~~((; and))~~.

(2) Any person who becomes a successor shall ~~((become liable for the full amount of the tax and))~~ withhold from the purchase price a sum sufficient to pay any tax due from the taxpayer until such time as the taxpayer shall produce a receipt from the department of revenue showing payment in full of any tax due or a certificate that no tax is due ~~((and, if such))~~. If any tax is not paid by the taxpayer within ten days from the date of such sale, exchange, or disposal, the

successor shall become liable for the payment of the full amount of tax ~~((, and the payment thereof by such))~~. If the fair market value of the assets acquired by a successor is less than fifty thousand dollars, the successor's liability for payment of the unpaid tax is limited to the fair market value of the assets acquired from the taxpayer. The burden of establishing the fair market value of the assets acquired is on the successor.

(3) The payment of any tax by a successor shall, to the extent thereof, be deemed a payment upon the purchase price((:)); and if such payment is greater in amount than the purchase price the amount of the difference shall become a debt due ((such)) the successor from the taxpayer.

(4) No successor shall be liable for any tax due from the person from whom ((he)) the successor has acquired a business or stock of goods if ((he)) the successor gives written notice to the department of revenue of such acquisition and no assessment is issued by the department of revenue within six months of receipt of such notice against the former operator of the business and a copy thereof mailed to ((such)) the successor.

Sec. 13. RCW 82.32.090 and 2000 c 229 s 7 are each amended to read as follows:

(1) If payment of any tax due on a return to be filed by a taxpayer is not received by the department of revenue by the due date, there shall be assessed a penalty of five percent of the amount of the tax; and if the tax is not received on or before the last day of the month following the due date, there shall be assessed a total penalty of ((ten)) fifteen percent of the amount of the tax under this subsection; and if the tax is not received on or before the last day of the second month following the due date, there shall be assessed a total penalty of ((twenty)) twenty-five percent of the amount of the tax under this subsection. No penalty so added shall be less than five dollars.

(2) If the department of revenue determines that any tax is due, there shall be assessed a penalty of five percent of the amount of the tax determined by the department to be due; and if payment of any tax ((assessed)) determined by the department ((of revenue)) to be due is not received by the department by the due date specified in the notice, or any extension thereof, ((the department shall add a penalty of ten percent of the amount of the additional tax found due)) there shall be assessed a total penalty of fifteen percent of the amount of the tax under this subsection; and if the tax is not received on or before the thirtieth day following the due date specified in the notice of tax due, or any extension thereof, there shall be assessed a total penalty of twenty-five percent of the amount of the tax under this subsection. No penalty so added shall be less than five dollars.

(3) If a warrant be issued by the department of revenue for the collection of taxes, increases, and penalties, there shall be added thereto a penalty of ((five)) ten percent of the amount of the tax, but not less than ten dollars.

(4) If the department finds that a person has engaged in any business or performed any act upon which a tax is imposed under this title and that person has not obtained from the department a registration certificate as required by RCW 82.32.030, the department shall impose a penalty of five percent of the amount of tax due from that person for the period that the person was not registered as required by RCW 82.32.030. The department shall not impose the penalty under this subsection (4) if a person who has engaged in business taxable

under this title without first having registered as required by RCW 82.32.030, prior to any notification by the department of the need to register, obtains a registration certificate from the department.

(5) If the department finds that all or any part of a deficiency resulted from the disregard of specific written instructions as to reporting or tax liabilities, the department shall add a penalty of ten percent of the amount of the additional tax found due because of the failure to follow the instructions. A taxpayer disregards specific written instructions when the department of revenue has informed the taxpayer in writing of the taxpayer's tax obligations and the taxpayer fails to act in accordance with those instructions unless the department has not issued final instructions because the matter is under appeal pursuant to this chapter or departmental regulations. The department shall not assess the penalty under this section upon any taxpayer who has made a good faith effort to comply with the specific written instructions provided by the department to that taxpayer. Specific written instructions may be given as a part of a tax assessment, audit, determination, or closing agreement, provided that such specific written instructions shall apply only to the taxpayer addressed or referenced on such documents. Any specific written instructions by the department of revenue shall be clearly identified as such and shall inform the taxpayer that failure to follow the instructions may subject the taxpayer to the penalties imposed by this subsection.

~~((5))~~ (6) If the department finds that all or any part of the deficiency resulted from an intent to evade the tax payable hereunder, a further penalty of fifty percent of the additional tax found to be due shall be added.

~~((6))~~ (7) The ~~((aggregate of))~~ penalties imposed under subsections (1)~~((, 2), and (3))~~ through (4) of this section ~~((shall not exceed thirty-five percent of the tax due, or twenty dollars, whichever is greater))~~ can each be imposed on the same tax found to be due. This subsection does not prohibit or restrict the application of other penalties authorized by law.

~~((7))~~ (8) The department of revenue may not impose both the evasion penalty and the penalty for disregarding specific written instructions on the same tax found to be due.

~~((8))~~ (9) For the purposes of this section, "return" means any document a person is required by the state of Washington to file to satisfy or establish a tax or fee obligation that is administered or collected by the department of revenue, and that has a statutorily defined due date.

NEW SECTION. Sec. 14. Except as otherwise provided in this section, section 13 of this act applies to all penalties imposed after June 30, 2003. The five percent penalty imposed in section 13(2) of this act applies to all assessments originally issued after June 30, 2003.

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

(1) A promoter of a special event within the state of Washington shall not permit a vendor to make or solicit retail sales of tangible personal property or services at the special event unless the promoter obtains verification that the vendor has obtained a certificate of registration from the department.

(2) A promoter of a special event shall:

(a) Keep, in addition to the records required under RCW 82.32.070, a record of the dates and place of each special event, and the name, address, and registration certificate number of vendors permitted to make or solicit retail sales of tangible personal property or services at the special event; and

(b) Provide to the department, within twenty days of receipt of a written request from the department, a list of vendors permitted to make or solicit retail sales of tangible personal property or services. The list shall be in a form and contain such information as the department may require, and shall include the date and place of the event, and the name, address, and registration certificate number of each vendor.

(3) If a promoter fails to comply with the provisions of this section, the promoter is liable for the penalties provided in this subsection (3).

(a) If a promoter fails to comply with the provisions of subsection (1) of this section, the department shall impose a penalty of one hundred dollars for each vendor permitted to make or solicit retail sales of tangible personal property or services at the special event.

(b) If a promoter fails to comply with the provisions of subsection (2)(b) of this section, the department shall impose a penalty of:

(i) Two hundred fifty dollars if the information requested is not received by the department within twenty days of the department's written request; and

(ii) One hundred dollars for each vendor for whom the information as required by subsection (2)(b) of this section is not provided to the department.

(4) The aggregate of penalties imposed under subsection (3) of this section may not exceed two thousand five hundred dollars for a special event if the promoter has not previously been penalized under this section. Under no circumstances is a promoter liable for sales tax or business and occupation tax not remitted to the department by a vendor at a special event.

(5) The department shall notify a promoter by mail of any penalty imposed under this section, and the penalty shall be due within thirty days from the date of the notice. If any penalty imposed under this section is not received by the department by the due date, there shall be assessed interest on the unpaid amount beginning the day following the due date until the penalty is paid in full. The rate of interest shall be computed on a daily basis on the amount of outstanding penalty at the rate as computed under RCW 82.32.050(2). The rate computed shall be adjusted annually in the same manner as provided in RCW 82.32.050(1)(c).

(6) For purposes of this section:

(a) "Promoter" means a person who organizes, operates, or sponsors a special event and who contracts with vendors for participation in the special event.

(b) "Special event" means an entertainment, amusement, recreational, educational, or marketing event, whether held on a regular or irregular basis, at which more than one vendor makes or solicits retail sales of tangible personal property or services. The term includes, but is not limited to: Auto shows, recreational vehicle shows, boat shows, home shows, garden shows, hunting and fishing shows, stamp shows, comic book shows, sports memorabilia shows, craft shows, art shows, antique shows, flea markets, exhibitions, festivals, concerts, swap meets, bazaars, carnivals, athletic contests, circuses, fairs, or other similar activities. "Special event" does not include an event that is organized for the

exclusive benefit of any nonprofit organization as defined in RCW 82.04.3651. An event is organized for the exclusive benefit of a nonprofit organization if all of the gross proceeds of retail sales of all vendors at the event inure to the benefit of the nonprofit organization on whose behalf the event is being held. "Special event" does not include athletic contests that involve competition between teams, when such competition consists of more than five contests in a calendar year by at least one team at the same facility or site.

(c) "Vendor" means a person who, at a special event, makes or solicits retail sales of tangible personal property or services.

(7) This section does not apply to:

(a) A special event whose promoter does not charge more than two hundred dollars for a vendor to participate in a special event;

(b) A special event whose promoter charges a percentage of sales instead of, or in addition to, a flat charge for a vendor to participate in a special event if the promoter, in good faith, believes that no vendor will pay more than two hundred dollars to participate in the special event; or

(c) A person who does not organize, operate, or sponsor a special event, but only provides a venue, supplies, furnishings, fixtures, equipment, or services to a promoter of a special event.

Sec. 16. RCW 82.32.020 and 1983 c 3 s 220 are each amended to read as follows:

For the purposes of this chapter:

The meaning attributed in chapters 82.01 through 82.27 RCW to the words and phrases "tax year," "taxable year," "person," "company," "gross proceeds of sales," "gross income of the business," "business," "engaging in business," "successor," "gross operating revenue," "gross income," "taxpayer," "retail sale," and "value of products" shall apply equally to the provisions of this chapter.

NEW SECTION. Sec. 17. (1) Sections 8 through 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 take effect August 1, 2003.

(2) Sections 11 through 16 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2003.

(3) Sections 1 through 7 of this act take effect January 1, 2004.

Passed by the House June 5, 2003.

Passed by the Senate June 5, 2003.

Approved by the Governor June 20, 2003.

Filed in Office of Secretary of State June 20, 2003.

CHAPTER 14

[House Bill 2285]

MEDICAL PROGRAM COST SHARING

AN ACT Relating to cost-sharing in medical programs; amending RCW 74.09.055; providing an effective date; and declaring an emergency.

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

Sec. 1. RCW 74.09.055 and 1993 c 492 s 231 are each amended to read as follows:

The department is authorized to establish copayment, deductible, ((or)) coinsurance, or other cost-sharing requirements for recipients of any medical programs defined in RCW 74.09.010.

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 takes effect July 1, 2003.

Passed by the House June 5, 2003.

Passed by the Senate June 5, 2003.

Approved by the Governor June 20, 2003.

Filed in Office of Secretary of State June 20, 2003.

CHAPTER 15

[Engrossed Substitute Senate Bill 5028]

WATER QUALITY ENFORCEMENT

AN ACT Relating to water pollution; amending RCW 90.03.400 and 90.03.600; and adding a new section to chapter 90.48 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 90.48 RCW to read as follows:

(1) The legislature finds that the courts have rendered decisions in *Elkhorn (Public Utility District No. 1 v. Washington Department of Ecology*, 511 U.S. 700, 114 S. Ct. 1900, 128 L.Ed. 2d 716 (1994)) and *Sullivan Creek (Public Utility District No. 1 of Pend Oreille County v. Washington Department of Ecology*, 146 Wn.2d 778, 51 P.3d 744 (2002)) related to water quality certifications issued under section 401 of the clean water act, 33 U.S.C. 1251 et seq. Enactment of this legislation does not expand or contract the legal holdings of these decisions and does not affect in any way the application of these holdings to any future case or fact pattern related to water quality certifications issued for federally licensed hydropower facilities under section 401 of the clean water act, 33 U.S.C. 1251 et seq.

(2) When a water quality standard cannot be reasonably met through the issuance of permits or regulatory orders issued under the authority of this chapter, the department may use voluntary, incentive-based methods including funding of water conservation projects, lease and purchase of water rights, development of new storage projects, or habitat restoration projects in an attempt to meet water quality standards.

(3) The department may not abrogate, supersede, impair, or condition the ability of a water right holder to fully divert or withdraw water under a water right permit, certificate, statutory exemption, or claim granted or recognized under chapter 90.03, 90.14, or 90.44 RCW through the authority granted to the department in this chapter. However, nothing in this act shall be construed to affect the department's authority related to the issuance of certifications under section 401 of the federal clean water act, 33 U.S.C. 1251 et seq., with respect to the application of federally authorized water quality standards, for federal energy regulatory commission licensed hydropower projects as provided under

this chapter and chapter 90.74 RCW. With respect to federal energy regulatory commission licensed hydropower projects, the department may only require a person to mitigate or remedy a water quality violation or problem to the extent there is substantial evidence such person has caused such violation or problem.

Sec. 2. RCW 90.03.400 and 2003 c 53 s 418 are each amended to read as follows:

(1)(a) The unauthorized use of water to which another person is entitled or the willful or negligent waste of water to the detriment of another, is a misdemeanor.

(b) For instances of the waste of water under this subsection, the department may alternatively follow the sequence of enforcement actions as provided in RCW 90.03.605.

(2) The possession or use of water without legal right shall be prima facie evidence of the guilt of the person using it.

(3) It is also a misdemeanor to use, store, or divert any water until after the issuance of permit to appropriate such water.

Sec. 3. RCW 90.03.600 and 1995 c 403 s 635 are each amended to read as follows:

In determining the amount of a penalty to be levied, the department shall consider the seriousness of the violation, whether the violation is repeated or continuous after notice of the violation is given, and whether any damage has occurred to the health or property of other persons. Except as provided in RCW 43.05.060 through 43.05.080 and 43.05.150, ~~((the power is granted to))~~ the department of ecology ~~((to))~~ may levy civil penalties ~~((of up to))~~ ranging from one hundred dollars to five thousand dollars per day for violation of any of the provisions of this chapter and chapters 43.83B, 90.22, and 90.44 RCW, and rules, permits, and similar documents and regulatory orders of the department of ecology adopted or issued pursuant to such chapters. The procedures of RCW 90.48.144 shall be applicable to all phases of the levying of a penalty as well as review and appeal of the same.

Passed by the Senate June 5, 2003.

Passed by the House June 10, 2003.

Approved by the Governor June 20, 2003.

Filed in Office of Secretary of State June 20, 2003.

CHAPTER 16

[Engrossed Second Substitute Senate Bill 5341]

NURSING FACILITIES—QUALITY MAINTENANCE FEE

AN ACT Relating to a quality maintenance fee levied on nursing facilities; adding new sections to chapter 74.46 RCW; adding a new chapter to Title 82 RCW; creating a new section; providing an effective date; providing a contingent expiration date; and declaring an emergency.

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

NEW SECTION. **Sec. 1.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

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

(2) "Gross income" means all revenue, without deduction, that is derived from the performance of nursing facility services. "Gross income" does not include other operating revenue or nonoperating revenue.

(3) "Other operating revenue" means income from nonpatient care services to patients, as well as sales and activities to persons other than patients. It is derived in the course of operating the facility, such as providing personal laundry service for patients, or from other sources such as meals provided to persons other than patients, personal telephones, gift shops, and vending machine commissions.

(4) "Nonoperating revenue" means income from activities not relating directly to the day-to-day operations of an organization. "Nonoperating revenue" includes such items as gains on disposal of a facility's assets, dividends, and interest from security investments, gifts, grants, and endowments.

(5) "Patient day" means a calendar day of care provided to a nursing facility resident, excluding a medicare patient day. Patient days include the day of admission and exclude the day of discharge; except that, when admission and discharge occur on the same day, one day of care shall be deemed to exist.

(6) "Medicare patient day" means a patient day for medicare beneficiaries on a medicare Part A stay and a patient day for persons who have opted for managed care coverage using their medicare benefit.

(7) "Nonexempt nursing facility" means a nursing facility that is not exempt from the quality maintenance fee under section 4 of this act.

(8) "Nursing facility" has the same meaning as the term is defined in RCW 18.51.010; it does not include a boarding home as defined in RCW 18.20.020 or an adult family home as defined in RCW 70.128.010.

(9) "Nursing facility operator" means a person who engages in the business of operating a nursing facility or facilities within this state.

(10) "Nursing facility services" means health-related services to individuals who do not require hospital care, but whose mental or physical condition requires services that are above the level of room and board and can be made available only through institutional facilities.

NEW SECTION. Sec. 2. (1) In addition to any other tax, a quality maintenance fee is imposed on every operator of a nonexempt nursing facility in this state. The quality maintenance fee shall be six dollars and fifty cents per patient day.

(2) Each operator of a nonexempt nursing facility shall file a return with the department on a monthly basis. The return shall include the following:

(a) The number of patient days for nonexempt nursing facilities operated by that person in that month; and

(b) Remittance of the nonexempt nursing facility operator's quality maintenance fee for that month.

NEW SECTION. Sec. 3. All of chapter 82.32 RCW, except RCW 82.32.270, applies to the fee imposed by this chapter, in addition to any other provisions of law for the payment and enforcement of the fee imposed by this chapter. The department may adopt rules, in accordance with chapter 34.05 RCW, as necessary to provide for the effective administration of this chapter.

NEW SECTION. Sec. 4. (1) By July 1st of each year, each nursing facility operator shall file a report with the department of social and health services

listing the patient days and the gross income for the prior calendar year for each nursing facility that he or she operates.

(2) By August 1, 2003, the department of social and health services shall submit for approval to the federal department of health and human services a request for a waiver pursuant to 42 C.F.R. 433.68. The waiver shall identify the nursing facilities that the department proposes to exempt from the quality maintenance fee. Those facilities shall include at least:

(a) Nursing facilities operated by any agency of the state of Washington;

(b) Nursing facilities operated by a public hospital district; and

(c) As many nursing facilities with no or disproportionately low numbers of medicaid-funded residents as, within the judgment of the department, may be exempted from the fee pursuant to 42 C.F.R. 433.68.

(3) The department of social and health services shall notify the department of revenue and the nursing facility operator of the nursing facilities that would be exempted from the quality maintenance fee pursuant to the waiver request submitted to the federal department of health and human services. The nursing facilities included in the waiver request may withhold payment of the fee pending final action by the federal government on the request for waiver.

(4) If the request for waiver is approved, the department of social and health services shall notify the department of revenue and the nursing facility operator that no quality maintenance fee is due from the facility. If the request for waiver is denied, nursing facility operators who have withheld payment of the fee shall pay all such fees as have been withheld. No interest or penalties shall be due upon such withheld payments for the period during which final federal action was pending.

(5) The department of social and health services shall take whatever action is necessary to continue the waiver from the federal government.

(6) The department of social and health services may adopt such rules, in accordance with chapter 34.05 RCW, as necessary to provide for effective administration of this section and section 5 of this act.

NEW SECTION. Sec. 5. The department of social and health services shall prospectively add the medicaid cost of the quality maintenance fee under section 2 of this act to the nursing facility component rate allocation calculated after application of all other provisions of RCW 74.46.521.

NEW SECTION. Sec. 6. (1) Sections 1 through 5 of this act shall expire on the effective date that federal medicaid matching funds are substantially reduced or that a federal sanction is imposed due to the quality maintenance fee under section 2 of this act, as such date is certified by the secretary of social and health services.

(2) The expiration of sections 1 through 5 of this act shall not be construed as affecting any existing right acquired or liability or obligation incurred under those sections or under any rule or order adopted under those sections, nor as affecting any proceeding instituted under those sections.

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. (1) Sections 1 through 3 of this act constitute a new chapter in Title 82 RCW.

(2) Sections 4 and 5 of this act are each added to chapter 74.46 RCW.

NEW SECTION. Sec. 9. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2003.

Passed by the Senate June 4, 2003.

Passed by the House June 5, 2003.

Approved by the Governor June 20, 2003.

Filed in Office of Secretary of State June 20, 2003.

CHAPTER 17

[Engrossed Senate Bill 5463]

ELECTRONIC VOTING PILOT PROJECT

AN ACT Relating to a pilot project for military and overseas voters to vote over the Internet; creating a new section; and providing an expiration date.

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

NEW SECTION. Sec. 1. Notwithstanding any provisions of Title 29 RCW, between the effective date of this act and December 31, 2004, the counties of Thurston, Pierce, Kitsap, Spokane, Snohomish, Island, and Cowlitz may participate in the pilot project Secure Electronic Registration and Voting Experiment (SERVE) authorized in the National Defense Authorization Act (P.L. 107-107). Participation of the counties must be approved by the secretary of state and implementation must be in compliance with standards and regulations established by the federal voting assistance program of the United States Department of Defense. Between the effective date of this act and December 31, 2004, participating counties must use the SERVE pilot project for all elections for which the SERVE voting system is available for use.

The SERVE pilot project must allow registered overseas voters, as defined in RCW 29.01.117, and registered service voters, as defined in RCW 29.01.155, to cast their votes electronically, including over the Internet and the World Wide Web. Except for the provisions of RCW 29.36.290 regarding the method for transmitting absentee voting materials and of RCW 29.36.310 regarding the method for processing absentee ballots, votes must be cast and counted in conformity with Title 29 RCW. The SERVE voting system is exempt from the requirements of RCW 29.33.300(6) and 29.33.320(6). Election officials must rely upon the procedures established by the United States Department of Defense for the security, secrecy, and validation of votes cast electronically, but the secretary of state is responsible for verifying the accuracy, secrecy, independence, and security of cast ballots. Votes transmitted over an electronic medium, such as the Internet or the World Wide Web, to the election authority under Title 29 RCW are subject to recount and election contest requirements, but not on the grounds that the vote is invalid or suspect because it was cast electronically. The tabulation of SERVE pilot project votes is subject to the tabulation and observer requirements of RCW 29.54.025. The secretary of state must make certain and confirm that a dependable and accurate ballot tracking procedure is in place for purposes of a statutory recount, as defined in chapter 29.64 RCW.

The secretary of state and participating counties must make every effort, including media press releases, web site information, and standard mail, to inform registered overseas and service voters of the SERVE pilot project. While county election officials and the secretary of state must inform qualified voters of the SERVE pilot project, communication with participating voters must be similar in nature to communication with voters not participating in the SERVE pilot project. The e-mail addresses of all participating voters must be made available for political purposes, as required by RCW 29.04.095 through 29.04.120.

The secretary of state must collect and publish data on the number of overseas and service voters who requested to participate in the pilot project, the number of overseas and service voters who participated in the pilot project, the number of ballots received electronically, the number of ballots rejected, and the reasons ballots were rejected. The information must be collected from the participating counties and from designated participating voters. By January 31, 2005, the secretary of state must compile and present a report on the results of the pilot project to the state government committee of the house of representatives and the government operations and elections committee of the senate. In addition to the data collected from participating counties and voters, the secretary of state must provide a complete description of the funding and costs of the SERVE pilot project, including the cost per vote and detailed information on state and county staffing expenditures.

The secretary of state must terminate the SERVE pilot project within a participating county if, anytime between the effective date of this act and December 31, 2004, the participating county fails to use the SERVE pilot project in any election for which the SERVE voting system is available for use.

This act expires January 31, 2005.

Passed by the Senate June 5, 2003.

Passed by the House June 5, 2003.

Approved by the Governor June 20, 2003.

Filed in Office of Secretary of State June 20, 2003.

CHAPTER 18

[Engrossed Substitute Senate Bill 5908]

HIGHER EDUCATION FACILITIES—CONSTRUCTION—BONDS

AN ACT Relating to capital construction of and bonding for facilities for institutions of higher education; and adding a new chapter to Title 28B RCW.

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

NEW SECTION. Sec. 1. SHORT TITLE. This act shall be known as the building Washington's future act.

NEW SECTION. Sec. 2. INTENT. The state's institutions of higher education are a vital component of the future economic prosperity of our state. In order to ensure that Washington continues to be able to provide a highly qualified work force that can attract businesses and support the economic vitality of the state, it is the intent of this bond act to provide new money for capital projects to help fulfill higher education needs across the state.

This new source of funding for the critical capital needs of the state's institutions of higher education furthers the mission of higher education and is intended to enhance the abilities of those institutions, over the next six years, to fulfill their critical roles in maintaining and stimulating the state's economy.

It is the intent of the legislature that this new source of funding not displace funding levels for the capital and operating budgets of the institutions of higher education. It is instead intended that the new funding will allow the institutions, over the next three biennia, to use the current level of capital funding to provide for many of those urgent preservation, replacement, and maintenance needs that have been deferred. This approach is designed to maintain or improve the current infrastructure of our institutions of higher education, and simultaneously to provide new instruction and research capacity to serve the increasing number of traditional college-aged students and those adults returning to college to update skills or retrain so that they can meet the demands of Washington's changing work force. This new source of funding may also be used for major preservation projects that renovate, replace, or modernize facilities to enhance capacity/access by maintaining or improving the usefulness of existing space for important instruction and research programs.

NEW SECTION. Sec. 3. DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Bonds" means bonds, notes, commercial paper, certificates of indebtedness, or other evidences of indebtedness of the state issued under this chapter.

(2) "Institutions of higher education" means the University of Washington and Washington State University, Western Washington University at Bellingham, Central Washington University at Ellensburg, Eastern Washington University at Cheney, The Evergreen State College, and the community colleges and technical colleges as defined by RCW 28B.50.030.

(3) "Washington's future bonds" means all or any portion of the general obligation bonds authorized in section 4 of this act.

NEW SECTION. Sec. 4. WASHINGTON'S FUTURE BONDS AUTHORIZED. (1) For the purpose of providing needed capital improvements consisting of the predesign, design, acquisition, construction, modification, renovation, expansion, equipping, and other improvement of state buildings and facilities for the institutions of higher education, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of seven hundred seventy-two million five hundred thousand dollars, or so much thereof as may be required, to finance all or a part of the cost of these projects and all costs incidental thereto. The bonds issued under the authority of this section shall be known as Washington's future bonds.

(2) Bonds authorized in this section shall be sold in the manner, at the time or times, in amounts, and at such prices as the state finance committee shall determine.

(3) No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds.

NEW SECTION. Sec. 5. BOND ISSUANCE—INTENT. It is the intent of the legislature that the proceeds of new bonds authorized in this chapter will be appropriated in phases over three biennia, beginning with the 2003-2005

biennium, to provide additional funding for capital projects and facilities of the institutions of higher education above historical levels of funding.

This chapter is not intended to limit the legislature's ability to appropriate bond proceeds if the full amount authorized in this chapter has not been appropriated after three biennia, and the authorization to issue bonds contained in this chapter does not expire until the full authorization has been appropriated and issued.

NEW SECTION. Sec. 6. TERMS AND COVENANTS. (1) The state finance committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds provided for in this chapter, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance.

(2) Bonds issued under this chapter 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.

NEW SECTION. Sec. 7. PROCEEDS. (1) The proceeds from the sale of the bonds authorized in section 4 of this act shall be deposited in the Gardner-Evans higher education construction account created in section 13 of this act.

(2) The proceeds shall be used exclusively for the purposes in section 4 of this act and for the payment of the expenses incurred in connection with the sale and issuance of the bonds.

NEW SECTION. Sec. 8. The legislature intends to use the proceeds from the sale of bonds issued under this chapter for the following projects during the 2005-07 and 2007-09 biennia:

- (1) For the University of Washington:
 - (a) Life sciences I building;
 - (b) Bothell branch campus phase 2B;
- (2) For Washington State University:
 - (a) Spokane Riverpoint campus - academic center building;
 - (b) Pullman campus - Holland Library renovation;
 - (c) Pullman campus - biotechnology/life sciences I;
 - (d) TriCities campus - bioproducts and sciences building; and
 - (e) Intercollegiate College of Nursing, Spokane - nursing building at Riverpoint;
- (3) For Eastern Washington University: Hargreaves Hall;
- (4) For Central Washington University: Hogue technology;
- (5) For The Evergreen State College:
 - (a) Daniel J. Evans building;
 - (b) Communications building and theater expansion;
- (6) For Western Washington University:
 - (a) Academic instructional center;
 - (b) Parks Hall;
 - (c) Performing Arts Center renovation;
- (7) For the community and technical college system:
 - (a) Green River Community College science building;
 - (b) Walla Walla Community College basic skills/computer lab;

(c) Pierce College Puyallup, communication arts and allied health; or

(8) For other projects that maintain or increase access to institutions of higher education.

NEW SECTION. Sec. 9. PAYMENT PROCEDURES. (1) The debt-limit general fund bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in this chapter.

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements on the bonds authorized in this chapter.

(3) On each date on which any interest or principal and interest payment is due on bonds issued under this chapter, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit general fund bond retirement account an amount equal to the amount certified by the state finance committee to be due on the payment date.

(4) 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.

NEW SECTION. Sec. 10. BONDS—LEGAL INVESTMENT FOR PUBLIC FUNDS. The bonds authorized by this chapter shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations.

NEW SECTION. Sec. 11. ADDITIONAL METHODS OF PAYING DEBT SERVICE AUTHORIZED. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized under this chapter, and section 9 of this act shall not be deemed to provide an exclusive method for payment.

NEW SECTION. Sec. 12. CHAPTER SUPPLEMENTAL. This chapter provides a complete, additional, and alternative method for accomplishing the purposes of this chapter and is supplemental and additional to powers conferred by other laws. The issuance of bonds under this chapter shall not be deemed to be the only method to fund projects under this chapter.

NEW SECTION. Sec. 13. CREATION OF THE GARDNER-EVANS HIGHER EDUCATION CONSTRUCTION ACCOUNT. The Gardner-Evans higher education construction account is created in the state treasury. Proceeds from the bonds issued under section 4 of this act shall be deposited in the account. The account shall be used for purposes of section 4 of this act. Moneys in the account may be spent only after appropriation.

NEW SECTION. Sec. 14. CAPTIONS NOT LAW. Captions used in this act are not any part of the law.

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 15 of this act constitute a new chapter in Title 28B RCW.

Passed by the Senate June 5, 2003.

Passed by the House June 6, 2003.
 Approved by the Governor June 20, 2003.
 Filed in Office of Secretary of State June 20, 2003.

CHAPTER 19

[Engrossed Substitute Senate Bill 6058]

STATE PROPERTY TAX DISTRIBUTION—SCHOOL DISTRICTS

AN ACT Relating to the distribution of state property taxes; and amending RCW 84.52.068.

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

Sec. 1. RCW 84.52.068 and 2001 c 3 s 5 are each amended to read as follows:

(1) A portion of the proceeds of the state property tax levy shall be distributed to school districts in the amounts and in the manner provided in this section.

(2) The amount of the distribution to each school district shall be based upon the average number of full-time equivalent students in the school district during the previous school year, and shall be calculated as follows:

(a) Out of taxes collected in calendar years 2001 through and including 2003, an annual amount equal to one hundred forty dollars per each full-time equivalent student in all school districts shall be deposited in the student achievement fund to be distributed to each school district based on one hundred forty dollars per full-time equivalent student in the school district for each year beginning with the school year 2001-2002 and through the end of the 2003-2004 school year.

(b) ~~((Out of taxes collected in calendar year 2004))~~ For the 2004-2005 school year, an annual amount equal to ~~((four))~~ two hundred fifty-four dollars per full-time equivalent student in all school districts shall be deposited in the student achievement fund to be distributed to each school district based on ~~((four))~~ two hundred fifty-four dollars per full-time equivalent student ~~((for each year beginning with the school year 2004-2005))~~.

(c) For the 2005-2006 school year, an amount equal to three hundred dollars per full-time equivalent student in all school districts shall be deposited in the student achievement fund to be distributed to each school district based on three hundred dollars per full-time equivalent student.

(d) For the 2006-2007 school year, an amount equal to three hundred seventy-five dollars per full-time equivalent student in all school districts shall be deposited in the student achievement fund to be distributed to each school district based on three hundred seventy-five dollars per full-time equivalent student.

(e) For the 2007-2008 school year, an amount equal to four hundred fifty dollars per full-time equivalent student in all school districts shall be deposited in the student achievement fund to be distributed to each school district based on four hundred fifty dollars per full-time equivalent student.

(f) Each subsequent year following the 2007-2008 school year, the amount deposited and distributed shall be adjusted for inflation as defined in RCW 43.135.025~~((7))~~ (8).

(3) For the 2001-2002 through 2003-2004 school years, the office of the superintendent of public instruction shall verify the average number of full-time equivalent students in each school district from the previous school year to the state treasurer by August 1st of each year.

(4) Beginning with the 2004-2005 school year:

(a) The annual distributions to each school district shall be based on the average number of full-time equivalent students in the school district from the previous school year as reported to the office of the superintendent of public instruction by August 31st of the previous school year; and

(b) The school district annual amounts as defined in subsection (2) of this section shall be distributed on the monthly apportionment schedule as defined in RCW 28A.510.250. The office of the superintendent of public instruction shall notify the department of the monthly amounts to be deposited into the student achievement fund to meet the apportionment schedule distributions.

Passed by the Senate June 4, 2003.

Passed by the House June 5, 2003.

Approved by the Governor June 20, 2003.

Filed in Office of Secretary of State June 20, 2003.

CHAPTER 20

[Senate Bill 6059]

TEACHERS' SALARIES—COST-OF-LIVING INCREASES

AN ACT Relating to teachers' cost-of-living increases; and amending RCW 28A.400.205, 28A.400.206, 28B.50.465, and 28B.50.468.

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

Sec. 1. RCW 28A.400.205 and 2001 c 4 s 2 are each amended to read as follows:

(1) School district employees shall be provided an annual salary cost-of-living increase in accordance with this section.

(a) The cost-of-living increase shall be calculated by applying the rate of the yearly increase in the cost-of-living index to any state-funded salary base used in state funding formulas for teachers and other school district employees. Beginning with the 2001-02 school year, and for each subsequent school year, except for the 2003-04 and 2004-05 school years, each school district shall be provided a cost-of-living allocation sufficient to grant this cost-of-living increase ((for the salaries, including mandatory salary-related benefits, of all employees of the district)).

(b) A school district shall distribute its cost-of-living allocation for salaries and salary-related benefits in accordance with the district's salary schedules, collective bargaining agreements, and compensation policies. No later than the end of the school year, each school district shall certify to the superintendent of public instruction that it has spent funds provided for cost-of-living increases on salaries and salary-related benefits.

(c) Any funded cost-of-living increase shall be included in the salary base used to determine cost-of-living increases for ((~~all~~)) school employees in subsequent years. For teachers and other certificated instructional staff, the rate of the annual cost-of-living increase funded for certificated instructional staff

shall be applied to the base salary used with the statewide salary allocation schedule established under RCW 28A.150.410 and to any other salary models used to recognize school district personnel costs.

~~((d) Beginning with the 2001-02 school year, the state shall fully fund the cost-of-living increase in this section as part of its obligation to meet the basic education requirements under Article IX of the Washington Constitution.))~~

(2) For the purposes of this section, "cost-of-living index" means, for any school year, the previous calendar year's annual average consumer price index, using the official current base, compiled by the bureau of labor statistics, United States department of labor for the state of Washington. If the bureau of labor statistics develops more than one consumer price index for areas within the state, the index covering the greatest number of people, covering areas exclusively within the boundaries of the state, and including all items shall be used for the cost-of-living index in this section.

Sec. 2. RCW 28A.400.206 and 2001 c 4 s 1 are each amended to read as follows:

The Washington Constitution establishes "the paramount duty of the state to make ample provision for the education of all children." Providing quality education for all children in Washington requires well-qualified and experienced teachers and other school employees. However, salaries for educators have not kept up with the increased cost-of-living in the state. The failure to keep up with inflation threatens Washington's ability to compete with other states to attract first-rate teachers to Washington classrooms and to keep well-qualified educators from leaving for other professions. The state must provide a fair and reasonable cost-of-living increase, as provided in this act, to help ensure that the state attracts and keeps the best teachers and school employees for the children of Washington.

Sec. 3. RCW 28B.50.465 and 2001 c 4 s 3 are each amended to read as follows:

(1) Academic employees of community and technical college districts shall be provided an annual salary cost-of-living increase in accordance with this section. For purposes of this section, "academic employee" has the same meaning as defined in RCW 28B.52.020.

(a) Beginning with the 2001-2002 fiscal year, and for each subsequent fiscal year, except as provided in (d) of this subsection, each college district shall receive a cost-of-living allocation sufficient to increase academic employee salaries, including mandatory salary-related benefits, by the rate of the yearly increase in the cost-of-living index.

(b) A college district shall distribute its cost-of-living allocation for salaries and salary-related benefits in accordance with the district's salary schedules, collective bargaining agreements, and other compensation policies. No later than the end of the fiscal year, each college district shall certify to the college board that it has spent funds provided for cost-of-living increases on salaries and salary-related benefits.

(c) The college board shall include any funded cost-of-living increase in the salary base used to determine cost-of-living increases for academic employees in subsequent years.

(d) Beginning with the 2001-2002 fiscal year, and for each subsequent fiscal year except for the 2003-04 and 2004-05 fiscal years, the state shall fully fund the cost-of-living increase set forth in this section.

(2) For the purposes of this section, "cost-of-living index" means, for any fiscal year, the previous calendar year's annual average consumer price index, using the official current base, compiled by the bureau of labor statistics, United States department of labor for the state of Washington. If the bureau of labor statistics develops more than one consumer price index for areas within the state, the index covering the greatest number of people, covering areas exclusively within the boundaries of the state, and including all items shall be used for the cost-of-living index in this section.

Sec. 4. RCW 28B.50.468 and 2001 c 4 s 4 are each amended to read as follows:

(1) Classified employees of technical colleges shall be provided an annual salary cost-of-living increase in accordance with this section. For purposes of this section, "technical college" has the same meaning as defined in RCW 28B.50.030. This section applies to only those classified employees under the jurisdiction of chapter 41.56 RCW.

(a) Beginning with the 2001-2002 fiscal year, and for each subsequent fiscal year, except as provided in (d) of this subsection, each technical college board of trustees shall receive a cost-of-living allocation sufficient to increase classified employee salaries, including mandatory salary-related benefits, by the rate of the yearly increase in the cost-of-living index.

(b) A technical college board of trustees shall distribute its cost-of-living allocation for salaries and salary-related benefits in accordance with the technical college's salary schedules, collective bargaining agreements, and other compensation policies. No later than the end of the fiscal year, each technical college shall certify to the college board that it has spent funds provided for cost-of-living increases on salaries and salary-related benefits.

(c) The college board shall include any funded cost-of-living increase in the salary base used to determine cost-of-living increases for technical college classified employees in subsequent years.

(d) Beginning with the 2001-2002 fiscal year, and for each subsequent fiscal year except for the 2003-2004 and 2004-2005 fiscal years, the state shall fully fund the cost-of-living increase set forth in this section.

(2) For the purposes of this section, "cost-of-living index" means, for any fiscal year, the previous calendar year's annual average consumer price index, using the official current base, compiled by the bureau of labor statistics, United States department of labor for the state of Washington. If the bureau of labor statistics develops more than one consumer price index for areas within the state, the index covering the greatest number of people, covering areas exclusively within the boundaries of the state, and including all items shall be used for the cost-of-living index in this section.

Passed by the Senate June 4, 2003.

Passed by the House June 9, 2003.

Approved by the Governor June 20, 2003.

Filed in Office of Secretary of State June 20, 2003.

CHAPTER 21

[Senate Bill 6087]

SITE CLOSURE ACCOUNT—FUND TRANSFERS

AN ACT Relating to transferring funds to the site closure account; and amending RCW 43.200.080 and 70.98.098.

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

Sec. 1. RCW 43.200.080 and 1999 c 372 s 12 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. A site closure account and a perpetual surveillance and maintenance account is hereby created in the state treasury. 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. All moneys, including earnings from the investment of balances in the site closure and the perpetual surveillance and maintenance account, less the allocation to the state treasurer's service fund, pursuant to RCW 43.08.190 accruing under the authority of this section shall be directed to the site closure account until December 31, 1992. Thereafter receipts including earnings

from the investment of balances in the site closure and the perpetual surveillance and maintenance account, less the allocation to the state treasurer's service fund, pursuant to RCW 43.08.190 shall be directed to the site closure account and the perpetual surveillance and maintenance account as specified by the department. Additional moneys specifically appropriated by the legislature or received from any public or private source may be placed in the site closure account and the perpetual surveillance and maintenance account. During the 2003-2005 fiscal biennium, the legislature may transfer up to thirteen million eight hundred thousand dollars from the site closure account to the general fund;

(3)(a) Subject to the conditions in (b) of this subsection, on July 1, 2008, and each July 1st thereafter, the treasurer shall transfer from the perpetual surveillance and maintenance account to the site closure account the sum of nine hundred sixty-six thousand dollars. The nine hundred sixty-six thousand dollars transferred on July 1, 2009, and thereafter shall be adjusted to a level equal to the percentage increase in the United States implicit price deflator for personal consumption. The last transfer under this section shall occur on July 1, 2033.

(b) The transfer in (a) of this subsection shall occur only if written agreement is reached between the state department of ecology and the United States department of energy pursuant to section 6 of the perpetual care agreement dated July 29, 1965, between the United States atomic energy commission and the state of Washington. If agreement cannot be reached between the state department of ecology and the United States department of energy by June 1, 2008, the treasurer shall transfer the funds from the general fund to the site closure account according to the schedule in (a) of this subsection.

(c) If for any reason the Hanford low level radioactive waste disposal facility is closed to further disposal operations during or after the 2003-2005 biennium and before 2033, then the amount remaining to be repaid from the 2003-2005 transfer of thirteen million eight hundred thousand dollars from the site closure account shall be transferred by the treasurer from the general fund to the site closure account to fund the closure and decommissioning of the facility. The treasurer shall transfer to the site closure account in full the amount remaining to be repaid upon written notice from the secretary of health that the department of health has authorized closure or that disposal operations have ceased. The treasurer shall complete the transfer within sixty days of written notice from the secretary of health.

(d) To the extent that money in the site closure account together with the amount of money identified for repayment to the site closure account, pursuant to (a) through (c) of this subsection, equals or exceeds the cost estimate approved by the department of health for closure and decommissioning of the facility, the money in the site closure account together with the amount of money identified for repayment to the site closure account shall constitute adequate financial assurance for purposes of the department of health financial assurance requirements.

(4) 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))~~ (5) 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;

~~((5))~~ (6) 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))~~ (7) 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 plans shall be updated annually.

Sec. 2. RCW 70.98.098 and 1992 c 61 s 4 are each amended to read as follows:

(1) In making the determination of the appropriate level of financial assurance, the secretary shall consider: (a) The report prepared by the department of ecology pursuant to RCW 43.200.200; (b) the potential cost of decontamination, treatment, disposal, decommissioning, and cleanup of facilities or equipment; (c) federal cleanup and decommissioning requirements; and (d) the legal defense cost, if any, that might be paid from the required financial assurance.

(2) The secretary may establish different levels of required financial assurance for various classes of permit or license holders.

(3) The secretary shall establish by rule the instruments or mechanisms by which a person may demonstrate financial assurance as required by RCW 70.98.095.

(4) To the extent that money in the site closure account together with the amount of money identified for repayment to the site closure account pursuant to RCW 43.200.080 equals or exceeds the cost estimate approved by the department of health for closure and decommissioning of the Hanford low-level radioactive waste disposal facility, the money in the site closure account together with the amount of money identified for repayment to the site closure account shall constitute adequate financial assurance for purposes of the department of health financial assurance requirements under RCW 70.98.095.

Passed by the Senate June 5, 2003.

Passed by the House June 6, 2003.

Approved by the Governor June 20, 2003.

Filed in Office of Secretary of State June 20, 2003.

CHAPTER 22

[Senate Bill 6092]

WASHINGTON PROFESSIONAL EDUCATOR STANDARDS BOARD—MEMBERSHIP

AN ACT Relating to including a classified employee on the Washington professional educator standards board; and amending RCW 28A.410.200.

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

Sec. 1. RCW 28A.410.200 and 2002 c 92 s 1 are each amended to read as follows:

(1)(a) The Washington professional educator standards board is created, consisting of ((nineteen)) twenty members to be appointed by the governor to four-year terms and the superintendent of public instruction, who shall be an ex officio, nonvoting member.

(b) As the four-year terms of the first appointees expire or vacancies to the board occur for the first time, the governor shall appoint or reappoint the members of the board to one-year to four-year staggered terms. Once the one-year to three-year terms expire, all subsequent terms shall be for four years, with the terms expiring on June 30th of the applicable year. The terms shall be staggered in such a way that, where possible, the terms of members representing a specific group do not expire simultaneously.

(c) No person may serve as a member of the board for more than two consecutive full four-year terms.

(d) The governor shall annually appoint the chair of the board from among the teachers and principals on the board. No board member may serve as chair for more than two consecutive years.

(2) Seven of the members shall be public school teachers, one shall be a private school teacher, three shall represent higher education educator preparation programs, four shall be school administrators, two shall be educational staff associates, one shall be a classified employee who assists in public school student instruction, one shall be a parent, and one shall be a member of the public.

(3) Public school teachers appointed to the board must:

(a) Have at least three years of teaching experience in a Washington public school;

(b) Be currently certificated and actively employed in a teaching position; and

(c) Include one teacher currently teaching at the elementary school level, one at the middle school level, one at the high school level, and one vocationally certificated.

(4) Private school teachers appointed to the board must:

(a) Have at least three years of teaching experience in a Washington approved private school; and

(b) Be currently certificated and actively employed in a teaching position in an approved private school.

(5) Appointees from higher education educator preparation programs must include two representatives from institutions of higher education as defined in RCW 28B.10.016 and one representative from an institution of higher education as defined in RCW 28B.07.020(4).

(6) School administrators appointed to the board must:

(a) Have at least three years of administrative experience in a Washington public school district;

(b) Be currently certificated and actively employed in a school administrator position; and

(c) Include two public school principals, one Washington approved private school principal, and one superintendent.

(7) Educational staff associates appointed to the board must:

(a) Have at least three years of educational staff associate experience in a Washington public school district; and

(b) Be currently certificated and actively employed in an educational staff associate position.

(8) Public school classified employees appointed to the board must:

(a) Have at least three years of experience in assisting in the instruction of students in a Washington public school; and

(b) Be currently employed in a position that requires the employee to assist in the instruction of students.

(9) Each major caucus of the house of representatives and the senate shall submit a list of at least one public school teacher. In making the public school teacher appointments, the governor shall select one nominee from each list provided by each caucus. The governor shall appoint the remaining members of the board from a list of qualified nominees submitted to the governor by organizations representative of the constituencies of the board, from applications from other qualified individuals, or from both nominees and applicants.

~~((9))~~ (10) All appointments to the board made by the governor shall be subject to confirmation by the senate.

~~((10))~~ (11) The governor shall appoint the members of the initial board no later than June 1, 2000.

~~((11))~~ (12) In appointing board members, the governor shall consider the diversity of the population of the state.

~~((12))~~ (13) Each member of the board shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses incurred in carrying out the duties of the board in accordance with RCW 43.03.050 and 43.03.060.

~~((13))~~ (14) The governor may remove a member of the board for neglect of duty, misconduct, malfeasance or misfeasance in office, or for incompetency or unprofessional conduct as defined in chapter 18.130 RCW. In such a case, the governor shall file with the secretary of state a statement of the causes for and the order of removal from office, and the secretary of state shall send a certified copy of the statement of causes and order of removal to the last known post office address of the member.

~~((14))~~ (15) If a vacancy occurs on the board, the governor shall appoint a replacement member from the nominees as specified in subsection ~~((8))~~ (9) of this section to fill the remainder of the unexpired term. When filling a vacancy of a member nominated by a major caucus of the legislature, the governor shall select the new member from a list of at least one name submitted by the same caucus that provided the list from which the retiring member was appointed.

~~((15))~~ (16) Members of the board shall hire an executive director and an administrative assistant to reside in the office of the superintendent of public instruction for administrative purposes only.

Passed by the Senate June 5, 2003.

Passed by the House June 6, 2003.

Approved by the Governor June 20, 2003.

Filed in Office of Secretary of State June 20, 2003.

CHAPTER 23

[Engrossed Senate Bill 6093]

LEGISLATIVE ASSOCIATION CONFERENCES

AN ACT Relating to funding and expenditures for official legislative association conferences; amending RCW 42.52.150; and adding a new section to chapter 42.52 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 42.52 RCW to read as follows:

When soliciting gifts, grants, or donations to host an official conference within the state of Washington of a national legislative association as approved by both the chief clerk and the secretary of the senate, designated legislative officials and designated legislative employees are presumed not to be in violation of the solicitation and receipt of gift provisions in this chapter. For the purposes of this section, any legislative association must include among its membership the Washington state legislature or individual legislators or legislative staff.

Sec. 2. RCW 42.52.150 and 2003 c 265 (ESSB 5178) s 3 and 2003 c 153 (2SHB 1973) s 6 are each amended to read as follows:

(1) No state officer or state employee may accept gifts, other than those specified in subsections (2) and (5) of this section, with an aggregate value in excess of fifty dollars from a single source in a calendar year or a single gift from multiple sources with a value in excess of fifty dollars. For purposes of this section, "single source" means any person, as defined in RCW 42.52.010, whether acting directly or through any agent or other intermediary, and "single gift" includes any event, item, or group of items used in conjunction with each other or any trip including transportation, lodging, and attendant costs, not excluded from the definition of gift under RCW 42.52.010. The value of gifts given to an officer's or employee's family member or guest shall be attributed to the official or employee for the purpose of determining whether the limit has been exceeded, unless an independent business, family, or social relationship exists between the donor and the family member or guest.

(2) Except as provided in subsection (4) of this section, the following items are presumed not to influence under RCW 42.52.140, and may be accepted without regard to the limit established by subsection (1) of this section:

- (a) Unsolicited flowers, plants, and floral arrangements;
- (b) Unsolicited advertising or promotional items of nominal value, such as pens and note pads;
- (c) Unsolicited tokens or awards of appreciation in the form of a plaque, trophy, desk item, wall memento, or similar item;
- (d) Unsolicited items received by a state officer or state employee for the purpose of evaluation or review, if the officer or employee has no personal

beneficial interest in the eventual use or acquisition of the item by the officer's or employee's agency;

(e) Informational material, publications, or subscriptions related to the recipient's performance of official duties;

(f) Food and beverages consumed at hosted receptions where attendance is related to the state officer's or state employee's official duties;

(g) Gifts, grants, conveyances, bequests, and devises of real or personal property, or both, in trust or otherwise accepted and solicited for deposit in the legislative international trade account created in RCW 44.04.--- (section 1, chapter 265 (Engrossed Substitute Senate Bill No. 5178), Laws of 2003);

(h) Gifts, grants, conveyances, bequests, and devises of real or personal property, or both, in trust or otherwise accepted and solicited for the purpose of promoting the expansion of tourism as provided for in RCW 43.330.090;

(i) Gifts, grants, conveyances, bequests, and devises of real or personal property, or both, solicited on behalf of a national legislative association or host committee for the purpose of hosting an official conference under the circumstances specified in section 1 of this act. Anything solicited or accepted may only be received by the national association or host committee and may not be commingled with any funds or accounts that are the property of any person;

(j) Admission to, and the cost of food and beverages consumed at, events sponsored by or in conjunction with a civic, charitable, governmental, or community organization; and

~~((j))~~ (k) Unsolicited gifts from dignitaries from another state or a foreign country that are intended to be personal in nature.

(3) The presumption in subsection (2) of this section is rebuttable and may be overcome based on the circumstances surrounding the giving and acceptance of the item.

(4) Notwithstanding subsections (2) and (5) of this section, a state officer or state employee of a regulatory agency or of an agency that seeks to acquire goods or services who participates in those regulatory or contractual matters may receive, accept, take, or seek, directly or indirectly, only the following items from a person regulated by the agency or from a person who seeks to provide goods or services to the agency:

(a) Unsolicited advertising or promotional items of nominal value, such as pens and note pads;

(b) Unsolicited tokens or awards of appreciation in the form of a plaque, trophy, desk item, wall memento, or similar item;

(c) Unsolicited items received by a state officer or state employee for the purpose of evaluation or review, if the officer or employee has no personal beneficial interest in the eventual use or acquisition of the item by the officer's or employee's agency;

(d) Informational material, publications, or subscriptions related to the recipient's performance of official duties;

(e) Food and beverages consumed at hosted receptions where attendance is related to the state officer's or state employee's official duties;

(f) Admission to, and the cost of food and beverages consumed at, events sponsored by or in conjunction with a civic, charitable, governmental, or community organization; and

(g) Those items excluded from the definition of gift in RCW 42.52.010 except:

(i) Payments by a governmental or nongovernmental entity of reasonable expenses incurred in connection with a speech, presentation, appearance, or trade mission made in an official capacity;

(ii) Payments for seminars and educational programs sponsored by a bona fide governmental or nonprofit professional, educational, trade, or charitable association or institution; and

(iii) Flowers, plants, and floral arrangements.

(5) A state officer or state employee may accept gifts in the form of food and beverage on infrequent occasions in the ordinary course of meals where attendance by the officer or employee is related to the performance of official duties. Gifts in the form of food and beverage that exceed fifty dollars on a single occasion shall be reported as provided in chapter 42.17 RCW.

Passed by the Senate June 10, 2003.

Passed by the House June 10, 2003.

Approved by the Governor June 20, 2003.

Filed in Office of Secretary of State June 20, 2003.

CHAPTER 24

[Second Engrossed Substitute Senate Bill 5659]

LOCAL GOVERNMENTS—ADDITIONAL FUNDING SOURCES

AN ACT Relating to authorizing additional funding for local governments; amending RCW 36.70A.130, 84.55.050, and 36.70A.040; adding a new section to chapter 82.14 RCW; creating a new section; providing an effective date; and declaring an emergency.

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

NEW SECTION. Sec. 1. The legislature finds that local governments in the state of Washington face enormous challenges in the area of criminal justice and public health. It is the legislature's intent to allow general local governments to raise revenues in order to better protect the health and safety of Washington state and its residents. It is further the intent of the legislature to provide such local governments relief from regulatory burdens that do not harm the public health and safety of the citizens of the state as a means of minimizing the need to generate new revenues authorized under this act.

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

(1) A county legislative authority may submit an authorizing proposition to the county voters at a primary or general election and, if the proposition is approved by a majority of persons voting, impose a sales and use tax in accordance with the terms of this chapter. The title of each ballot measure must clearly state the purposes for which the proposed sales and use tax will be used. Funds raised under this tax shall not supplant existing funds used for these purposes. The rate of tax under this section shall not exceed three-tenths of 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.

(2) The tax authorized in this section is in addition to any other taxes authorized by law and shall be collected from those persons who are taxable by

the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the county.

(3) The retail sale or use of motor vehicles, and the lease of motor vehicles for up to the first thirty-six months of the lease, are exempt from tax imposed under this section.

(4) One-third of all money received under this section shall be used solely for criminal justice purposes. For the purposes of this subsection, "criminal justice purposes" means additional police protection, mitigation of congested court systems, or relief of overcrowded jails or other local correctional facilities.

(5) Money received under this section shall be shared between the county and the cities as follows: Sixty percent shall be retained by the county and forty percent shall be distributed on a per capita basis to cities in the county.

***Sec. 3. RCW 36.70A.130 and 2002 c 320 s 1 are each amended to read as follows:**

(1)(a) Each comprehensive land use plan and development regulations shall be subject to continuing review and evaluation by the county or city that adopted them. A county or city shall take legislative action to review and, if needed, revise its comprehensive land use plan and development regulations to ensure the plan and regulations comply with the requirements of this chapter according to the time periods specified in subsection (4) of this section. A county or city not planning under RCW 36.70A.040 shall take action to review and, if needed, revise its policies and development regulations regarding critical areas and natural resource lands adopted according to this chapter to ensure these policies and regulations comply with the requirements of this chapter according to the time periods specified in subsection (4) of this section. Legislative action means the adoption of a resolution or ordinance following notice and a public hearing indicating at a minimum, a finding that a review and evaluation has occurred and identifying the revisions made, or that a revision was not needed and the reasons therefore. The review and evaluation required by this subsection may be combined with the review required by subsection (3) of this section. The review and evaluation required by this subsection shall include, but is not limited to, consideration of critical area ordinances and, if planning under RCW 36.70A.040, an analysis of the population allocated to a city or county from the most recent ten-year population forecast by the office of financial management.

(b) Any amendment of or revision to a comprehensive land use plan shall conform to this chapter. Any amendment of or revision to development regulations shall be consistent with and implement the comprehensive plan.

(2)(a) Each county and city shall establish and broadly disseminate to the public a public participation program consistent with RCW 36.70A.035 and 36.70A.140 that identifies procedures and schedules whereby updates, proposed amendments, or revisions of the comprehensive plan are considered by the governing body of the county or city no more frequently than once every year. "Updates" means to review and revise, if needed, according to subsection (1) of this section, and the time periods specified in subsection (4) of this section. Amendments may be considered more frequently than once per year under the following circumstances:

(i) The initial adoption of a subarea plan that does not modify the comprehensive plan policies and designations applicable to the subarea;

(ii) *The adoption or amendment of a shoreline master program under the procedures set forth in chapter 90.58 RCW; and*

(iii) *The amendment of the capital facilities element of a comprehensive plan that occurs concurrently with the adoption or amendment of a county or city budget.*

(b) *Except as otherwise provided in (a) of this subsection, all proposals shall be considered by the governing body concurrently so the cumulative effect of the various proposals can be ascertained. However, after appropriate public participation a county or city may adopt amendments or revisions to its comprehensive plan that conform with this chapter whenever an emergency exists or to resolve an appeal of a comprehensive plan filed with a growth management hearings board or with the court.*

(3) *Each county that designates urban growth areas under RCW 36.70A.110 shall review, at least every ten years, its designated urban growth area or areas, and the densities permitted within both the incorporated and unincorporated portions of each urban growth area. In conjunction with this review by the county, each city located within an urban growth area shall review the densities permitted within its boundaries, and the extent to which the urban growth occurring within the county has located within each city and the unincorporated portions of the urban growth areas. The county comprehensive plan designating urban growth areas, and the densities permitted in the urban growth areas by the comprehensive plans of the county and each city located within the urban growth areas, shall be revised to accommodate the urban growth projected to occur in the county for the succeeding twenty-year period. The review required by this subsection may be combined with the review and evaluation required by RCW 36.70A.215.*

(4) *The department shall establish a schedule for counties and cities to take action to review and, if needed, revise their comprehensive plans and development regulations to ensure the plan and regulations comply with the requirements of this chapter. The schedule established by the department shall provide for the reviews and evaluations to be completed as follows:*

(a) *On or before December 1, 2004, and every seven years thereafter, for ((Clallam,)) Clark, ((Jefferson,)) King, Kitsap, Pierce, Snohomish, Thurston, and Whatcom counties and the cities within those counties;*

(b) *On or before December 1, 2005, and every seven years thereafter, for Cowlitz, Island, Lewis, Mason, San Juan, Skagit, Clallam, Jefferson, and Skamania counties and the cities within those counties;*

(c) *On or before December 1, 2006, and every seven years thereafter, for Benton, Chelan, Douglas, Grant, Kittitas, Spokane, and Yakima counties and the cities within those counties; and*

(d) *On or before December 1, 2007, and every seven years thereafter, for Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities within those counties.*

(5)(a) *Nothing in this section precludes a county or city from conducting the review and evaluation required by this section before the time limits established in subsection (4) of this section. Counties and cities may begin this process early and may be eligible for grants from the department, subject to available funding, if they elect to do so.*

(b) State agencies are encouraged to provide technical assistance to the counties and cities in the review of critical area ordinances, comprehensive plans, and development regulations.

(6) A county or city subject to the time periods in subsection (4)(a) of this section that, pursuant to an ordinance adopted by the county or city establishing a schedule for periodic review of its comprehensive plan and development regulations, has conducted a review and evaluation of its comprehensive plan and development regulations and, on or after January 1, 2001, has taken action in response to that review and evaluation shall be deemed to have conducted the first review required by subsection (4)(a) of this section. Subsequent review and evaluation by the county or city of its comprehensive plan and development regulations shall be conducted in accordance with the time periods established under subsection (4)(a) of this section.

(7) The requirements imposed on counties and cities under this section shall be considered "requirements of this chapter" under the terms of RCW 36.70A.040(1). Only those counties and cities in compliance with the schedules in this section shall have the requisite authority to receive grants, loans, pledges, or financial guarantees from those accounts established in RCW 43.155.050 and 70.146.030. Only those counties and cities in compliance with the schedules in this section shall receive preference for grants or loans subject to the provisions of RCW 43.17.250.

*Sec. 3 was vetoed. See message at end of chapter.

Sec. 4. RCW 84.55.050 and 1989 c 287 s 1 are each amended to read as follows:

(1) Subject to any otherwise applicable statutory dollar rate limitations, regular property taxes may be levied by or for a taxing district in an amount exceeding the limitations provided for in this chapter if such levy is authorized by a proposition approved by a majority of the voters of the taxing district voting on the proposition at a general election held within the district or at a special election within the taxing district called by the district for the purpose of submitting such proposition to the voters. Any election held pursuant to this section shall be held not more than twelve months prior to the date on which the proposed levy is to be made, except as provided in subsection (3)(b) of this section. The ballot of the proposition shall state the dollar rate proposed and shall clearly state any conditions which are applicable under subsection (3) of this section.

(2) After a levy authorized pursuant to this section is made, the dollar amount of such levy shall be used for the purpose of computing the limitations for subsequent levies provided for in this chapter, except as provided in subsections (3) and (4) of this section.

(3) A proposition placed before the voters under this section may:

(a) Limit the period for which the increased levy is to be made;

(b) Subject to statutory dollar limitations in RCW 84.52.043, authorize annual increases in levies for any county, city, or town for multiple consecutive years, up to six consecutive years, during which period each year's authorized maximum legal levy shall be used as the base upon which an increased levy limit for the succeeding year is computed, but the ballot proposition must state the dollar rate proposed only for the first year of the consecutive years and must

state the limit factor, or a specified index to be used for determining a limit factor, such as the consumer price index, which need not be the same for all years, by which the regular tax levy for the district may be increased in each of the subsequent consecutive years. Elections for this purpose must be held at a primary or general election. The title of each ballot measure must state the specific purposes for which the proposed levy increase shall be used, and funds raised under this levy shall not supplant existing funds used for these purposes;

(c) Limit the purpose for which the increased levy is to be made, but if the limited purpose includes making redemption payments on bonds, the period for which the increased levies are made shall not exceed nine years;

~~((e))~~ (d) Set the levy at a rate less than the maximum rate allowed for the district;

(e) Provide that the maximum allowable dollar amount of the final annual levy of the period specified in the measure shall be used to compute the limitations provided for in this chapter on levy increases occurring after the expiration of the period; or

~~((d))~~ (f) Include any combination of the conditions in this subsection.

(4) Except as otherwise provided in an approved ballot measure under this section, after the expiration of a limited period or the satisfaction of a limited purpose, whichever comes first, subsequent levies shall be computed as if:

(a) The limited proposition under subsection (3) of this section had not been approved; and

(b) The taxing district had made levies at the maximum rates which would otherwise have been allowed under this chapter during the years levies were made under the limited proposition.

**Sec. 5. RCW 36.70A.040 and 2000 c 36 s 1 are each amended to read as follows:*

(1)(a) Each county that has both a population of fifty thousand or more and, until May 16, 1995, has had its population increase by more than ten percent in the previous ten years or, on or after May 16, 1995, has had its population increase by more than seventeen percent in the previous ten years, and the cities located within such county, and any other county regardless of its population that has had its population increase by more than twenty percent in the previous ten years, and the cities located within such county, shall conform with all of the requirements of this chapter. However, the county legislative authority of such a county with a population of less than fifty thousand population may adopt a resolution removing the county, and the cities located within the county, from the requirements of adopting comprehensive land use plans and development regulations under this chapter if this resolution is adopted and filed with the department by December 31, 1990, for counties initially meeting this set of criteria, or within sixty days of the date the office of financial management certifies that a county meets this set of criteria under subsection ~~((5))~~ (6) of this section. For the purposes of this subsection, a county not currently planning under this chapter is not required to include in its population count those persons confined in a correctional facility under the jurisdiction of the department of corrections that is located in the county.

(b) Once a county meets either of these sets of criteria and the county has not removed itself from the requirement to plan under this section pursuant to

subsection (3) of this section, the requirement to conform with all of the requirements of this chapter remains in effect, even if the county no longer meets one of these sets of criteria.

(2) The county legislative authority of any county that does not meet either of the sets of criteria established under subsection (1) of this section may adopt a resolution indicating its intention to have subsection (1) of this section apply to the county. Each city, located in a county that chooses to plan under this subsection, shall conform with all of the requirements of this chapter. Once such a resolution has been adopted, the county and the cities located within the county remain subject to all of the requirements of this chapter unless the county removes itself from the requirement to plan under this section pursuant to subsection (3) of this section.

(3) A county that meets the requirements of this subsection, and a city located within the county, may be relieved from the requirement to plan under this section.

(a) A county may be relieved from the planning requirement of this section only if the county: (i) Has a population of less than ten thousand; (ii) has a privately owned taxable land base of less than twenty percent; and (iii) includes no more than one incorporated city.

(b) To be relieved from the planning requirement of this section, a county shall adopt a resolution that removes the county and the city from the requirement to plan and shall file the resolution with the department. Removal shall be deemed to occur on the date the resolution is filed with the department.

(4) Any county or city that is initially required to conform with all of the requirements of this chapter under subsection (1) of this section and has not removed itself under subsection (3) of this section shall take actions under this chapter as follows: (a) The county legislative authority shall adopt a county-wide planning policy under RCW 36.70A.210; (b) the county and each city located within the county shall designate critical areas, agricultural lands, forest lands, and mineral resource lands, and adopt development regulations conserving these designated agricultural lands, forest lands, and mineral resource lands and protecting these designated critical areas, under RCW 36.70A.170 and 36.70A.060; (c) the county shall designate and take other actions related to urban growth areas under RCW 36.70A.110; (d) if the county has a population of fifty thousand or more, the county and each city located within the county shall adopt a comprehensive plan under this chapter and development regulations that are consistent with and implement the comprehensive plan on or before July 1, 1994, and if the county has a population of less than fifty thousand, the county and each city located within the county shall adopt a comprehensive plan under this chapter and development regulations that are consistent with and implement the comprehensive plan by January 1, 1995, but if the governor makes written findings that a county with a population of less than fifty thousand or a city located within such a county is not making reasonable progress toward adopting a comprehensive plan and development regulations the governor may reduce this deadline for such actions to be taken by no more than one hundred eighty days. Any county or city subject to this subsection may obtain an additional six months before it is required to have adopted its development

regulations by submitting a letter notifying the department of community, trade, and economic development of its need prior to the deadline for adopting both a comprehensive plan and development regulations.

~~((4))~~ (5) *Any county or city that is required to conform with all the requirements of this chapter, as a result of the county legislative authority adopting its resolution of intention under subsection (2) of this section and the county has not removed itself pursuant to subsection (3) of this section, shall take actions under this chapter as follows: (a) The county legislative authority shall adopt a county-wide planning policy under RCW 36.70A.210; (b) the county and each city that is located within the county shall adopt development regulations conserving agricultural lands, forest lands, and mineral resource lands it designated under RCW 36.70A.060 within one year of the date the county legislative authority adopts its resolution of intention; (c) the county shall designate and take other actions related to urban growth areas under RCW 36.70A.110; and (d) the county and each city that is located within the county shall adopt a comprehensive plan and development regulations that are consistent with and implement the comprehensive plan not later than four years from the date the county legislative authority adopts its resolution of intention, but a county or city may obtain an additional six months before it is required to have adopted its development regulations by submitting a letter notifying the department of community, trade, and economic development of its need prior to the deadline for adopting both a comprehensive plan and development regulations.*

~~((5))~~ (6) *If the office of financial management certifies that the population of a county that previously had not been required to plan under subsection (1) or (2) of this section has changed sufficiently to meet either of the sets of criteria specified under subsection (1) of this section, and where applicable, the county legislative authority has not adopted a resolution removing the county from these requirements as provided in subsection (1) of this section, the county and each city within such county shall take actions under this chapter as follows: (a) The county legislative authority shall adopt a county-wide planning policy under RCW 36.70A.210; (b) the county and each city located within the county shall adopt development regulations under RCW 36.70A.060 conserving agricultural lands, forest lands, and mineral resource lands it designated within one year of the certification by the office of financial management; (c) the county shall designate and take other actions related to urban growth areas under RCW 36.70A.110; and (d) the county and each city located within the county shall adopt a comprehensive land use plan and development regulations that are consistent with and implement the comprehensive plan within four years of the certification by the office of financial management, but a county or city may obtain an additional six months before it is required to have adopted its development regulations by submitting a letter notifying the department of community, trade, and economic development of its need prior to the deadline for adopting both a comprehensive plan and development regulations.*

~~((6))~~ (7) *A copy of each document that is required under this section shall be submitted to the department at the time of its adoption.*

~~((7))~~ **(8)** *Cities and counties planning under this chapter must amend the transportation element of the comprehensive plan to be in compliance with this chapter and chapter 47.80 RCW no later than December 31, 2000.*

*Sec. 5 was vetoed. See message at end of chapter.

NEW SECTION. Sec. 6. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2003.

NEW SECTION. Sec. 7. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed by the Senate June 10, 2003.

Passed by the House June 10, 2003.

Approved by the Governor June 20, 2003, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State June 20, 2003.

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

"I am returning herewith, without my approval as to sections 3 and 5, Second Engrossed Substitute Senate Bill No. 5659 entitled:

"AN ACT Relating to authorizing additional funding for local governments;"

This bill responsibly addresses a growing problem in Washington State - the gap between local government revenues and expenses. It provides two different mechanisms for localities to deal with this situation. Both approaches have a common feature; they allow the taxes to take effect only if voters approve them.

However, two sections of the bill are unrelated to its title, "an act relating to authorizing additional funding for local governments," which could jeopardize the constitutionality of the entire act. Sections 3 and 5 amend the Growth Management Act (GMA). While I realize that various jurisdictions have problems with GMA implementation, any changes to GMA should only be undertaken after careful consideration of relevant issues. It is also questionable whether two counties should receive an extension of the timetable for updating their comprehensive plans without clearer comparison to other counties' problems in meeting their deadlines for such updates.

I hereby direct my staff to work with the Department of Community, Trade and Economic Development and with concerned stakeholders over the next five months on potential amendments to the GMA. The deliberations should focus on how we can meet the goals of the GMA, plan for economic development, and protect our environment, while recognizing the difficult fiscal conditions facing so many local governments. The stakeholders should include a representative group of cities and counties, as well as the Association of Washington Cities and the Washington State Association of Counties. It is my intention that we bring to the 2004 Legislature a set of GMA amendments that can be adopted with broad support.

For these reasons, I have vetoed sections 3 and 5 of Second Engrossed Substitute Senate Bill No. 5659.

With the exception of sections 3 and 5, Second Engrossed Substitute Senate Bill No. 5659 is approved."

CHAPTER 25

[Engrossed Substitute Senate Bill 5404]

OPERATING BUDGET

AN ACT Relating to fiscal matters; amending RCW 19.28.351, 28A.305.210, 28A.500.030, 38.52.106, 43.03.050, 43.08.190, 43.10.180, 43.43.944, 43.320.110, 46.09.170, 48.02.190, 49.26.130, 50.16.010, 51.44.170, 66.08.190, 66.16.010, 67.40.040, 69.50.520, 70.79.350, 70.94.483, 70.105D.070, 70.146.030, 70.146.080, 72.11.040, 76.12.050, 76.12.170, 79.08.180, 80.01.080, 82.14.200, 82.14.210, and 86.26.007; reenacting and amending RCW 41.50.110, 43.08.250, and 43.135.045; amending 2003 c 10 s 708 (uncodified); adding a new section to 2003 c 360 (uncodified); creating new sections; repealing 2003 c 360 s 408 (uncodified); making appropriations; and declaring an emergency.

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

NEW SECTION. Sec. 1. (1) A budget is hereby adopted and, subject to the provisions set forth in the following sections, the several amounts specified in parts I through VIII of this act, or so much thereof as shall be sufficient to accomplish the purposes designated, are hereby appropriated and authorized to be incurred for salaries, wages, and other expenses of the agencies and offices of the state and for other specified purposes for the fiscal biennium beginning July 1, 2003, and ending June 30, 2005, except as otherwise provided, out of the several funds of the state hereinafter named.

(2) Unless the context clearly requires otherwise, the definitions in this section apply throughout this act.

(a) "Fiscal year 2004" or "FY 2004" means the fiscal year ending June 30, 2004.

(b) "Fiscal year 2005" or "FY 2005" means the fiscal year ending June 30, 2005.

(c) "FTE" means full time equivalent.

(d) "Lapse" or "revert" means the amount shall return to an unappropriated status.

(e) "Provided solely" means the specified amount may be spent only for the specified purpose. Unless otherwise specifically authorized in this act, any portion of an amount provided solely for a specified purpose which is unnecessary to fulfill the specified purpose shall lapse.

**PART I
GENERAL GOVERNMENT**

NEW SECTION. Sec. 101. FOR THE HOUSE OF REPRESENTATIVES

General Fund—State Appropriation (FY 2004)	\$28,109,000
General Fund—State Appropriation (FY 2005)	\$28,233,000
Department of Retirement Systems Expense Account—	
State Appropriation	\$45,000
TOTAL APPROPRIATION	\$56,387,000

The appropriations in this section are subject to the following conditions and limitations: \$25,000 of the general fund—state appropriation is provided for allocation to Project Citizen, a program of the national conference of state legislatures to promote student civic involvement.

NEW SECTION. Sec. 102. FOR THE SENATE

General Fund—State Appropriation (FY 2004)	\$22,001,000
General Fund—State Appropriation (FY 2005)	\$23,173,000
Department of Retirement Systems Expense Account—	
State Appropriation	\$45,000
TOTAL APPROPRIATION	\$45,219,000

The appropriations in this section are subject to the following conditions and limitations: \$25,000 of the general fund—state appropriation is provided for allocation to Project Citizen, a program of the national conference of state legislatures to promote student civic involvement.

NEW SECTION. Sec. 103. FOR THE JOINT LEGISLATIVE AUDIT AND REVIEW COMMITTEE

General Fund—State Appropriation (FY 2004)	\$1,627,000
General Fund—State Appropriation (FY 2005)	\$1,717,000
TOTAL APPROPRIATION	\$3,344,000

NEW SECTION. Sec. 104. FOR THE LEGISLATIVE EVALUATION AND ACCOUNTABILITY PROGRAM COMMITTEE

General Fund—State Appropriation (FY 2004)	\$1,656,000
General Fund—State Appropriation (FY 2005)	\$1,799,000
TOTAL APPROPRIATION	\$3,455,000

The appropriations in this section are subject to the following conditions and limitations: \$25,000 of the general fund—state appropriation for fiscal year 2004 and \$25,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the legislative evaluation and accountability program committee, in consultation with the economic and revenue forecast council, to establish and maintain a set of economic indicators that could be used for adjusting the statewide salary schedule by a regional cost-of-living index. The economic indicators to be included in this index include but are not limited to the median cost of housing.

(1) In developing the regional cost-of-living index, the legislative evaluation and accountability program committee shall collect data on the economic activity comprising the cost-of-living indexes for geographic areas of the state coterminous with the boundaries of the nine educational service districts established under RCW 28A.310.010.

(2) Not later than July 1, 2004, the legislative evaluation and accountability program committee shall submit the regional cost-of-living index to an advisory committee for its review. The advisory committee shall be appointed by the governor and shall consist of one member representing the office of financial management, one member representing the employment security department, one member representing the office of the superintendent of public instruction, and three representatives of the private sector having demonstrated expertise in regional economics. The advisory committee shall not receive compensation for performance of its duties but may be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(3) Not later than October 1, 2004, the advisory committee created under this section shall submit to the director of the legislative evaluation and accountability program committee written comment on the proposed regional

cost-of-living index. The written comment may include recommendations for revision to the index or its components.

NEW SECTION. Sec. 105. FOR THE OFFICE OF THE STATE ACTUARY

Department of Retirement Systems Expense Account—
State Appropriation \$2,616,000

The appropriation in this section is subject to the following conditions and limitations: \$178,000 of the department of retirement systems expense account—state appropriation is provided solely for the costs associated with leasing and moving into new office space.

NEW SECTION. Sec. 106. FOR THE JOINT LEGISLATIVE SYSTEMS COMMITTEE

General Fund—State Appropriation (FY 2004) \$6,754,000
General Fund—State Appropriation (FY 2005) \$6,753,000
TOTAL APPROPRIATION \$13,507,000

NEW SECTION. Sec. 107. FOR THE STATUTE LAW COMMITTEE

General Fund—State Appropriation (FY 2004) \$3,851,000
General Fund—State Appropriation (FY 2005) \$3,955,000
TOTAL APPROPRIATION \$7,806,000

NEW SECTION. Sec. 108. LEGISLATIVE AGENCIES. In order to achieve operating efficiencies within the financial resources available to the legislative branch, the executive rules committee of the house of representatives and the facilities and operations committee of the senate by joint action may transfer funds among the house of representatives, senate, joint legislative audit and review committee, legislative evaluation and accountability program committee, legislative transportation committee, office of the state actuary, joint legislative systems committee, and statute law committee.

NEW SECTION. Sec. 109. FOR THE SUPREME COURT

General Fund—State Appropriation (FY 2004) \$5,462,000
General Fund—State Appropriation (FY 2005) \$5,665,000
TOTAL APPROPRIATION \$11,127,000

NEW SECTION. Sec. 110. FOR THE LAW LIBRARY

General Fund—State Appropriation (FY 2004) \$2,045,000
General Fund—State Appropriation (FY 2005) \$2,050,000
TOTAL APPROPRIATION \$4,095,000

NEW SECTION. Sec. 111. FOR THE COURT OF APPEALS

General Fund—State Appropriation (FY 2004) \$12,510,000
General Fund—State Appropriation (FY 2005) \$12,747,000
TOTAL APPROPRIATION \$25,257,000

NEW SECTION. Sec. 112. FOR THE COMMISSION ON JUDICIAL CONDUCT

General Fund—State Appropriation (FY 2004) \$913,000
General Fund—State Appropriation (FY 2005) \$915,000
TOTAL APPROPRIATION \$1,828,000

NEW SECTION. Sec. 113. FOR THE ADMINISTRATOR FOR THE COURTS

General Fund—State Appropriation (FY 2004)	\$17,295,000
General Fund—State Appropriation (FY 2005)	\$17,340,000
Public Safety and Education Account—State	
Appropriation.	\$43,389,000
Judicial Information Systems Account—State	
Appropriation.	\$27,903,000
TOTAL APPROPRIATION	\$105,927,000

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

(1) The judicial information systems account appropriation shall be used for the operations and maintenance of technology systems that improve services provided by the supreme court, the court of appeals, the office of public defense, and the administrator for the courts.

(2) \$750,000 of the general fund—state appropriation for fiscal year 2004 and \$750,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for court-appointed special advocates in dependency matters. The administrator for the courts, after consulting with the association of juvenile court administrators and the association of court-appointed special advocate/guardian ad litem programs, shall distribute the funds to volunteer court-appointed special advocate/guardian ad litem programs. The distribution of funding shall be based on the number of children who need volunteer court-appointed special advocate representation and shall be equally accessible to all volunteer court-appointed special advocate/guardian ad litem programs. The administrator for the courts shall not retain more than six percent of total funding to cover administrative or any other agency costs.

(3) \$12,572,000 of the judicial information systems account—state appropriation is provided solely for improvements and enhancements to the judicial information system. This funding shall only be expended after the office of the administrator for the courts certifies to the office of financial management that there will be at least a \$1,000,000 ending fund balance in the judicial information systems account at the end of the 2003-05 biennium.

(4) \$3,000,000 of the public safety and education account—state appropriation is provided solely for school district petitions to juvenile court for truant students as provided in RCW 28A.225.030 and 28A.225.035. The office of the administrator for the courts shall develop an interagency agreement with the office of the superintendent of public instruction to allocate the funding provided in this subsection. Allocation of this money to school districts shall be based on the number of petitions filed.

(5) \$13,224,000 of the public safety and education account—state appropriation is provided solely for distribution to county juvenile court administrators to fund the costs of processing truancy, children in need of services, and at-risk youth petitions. The office of the administrator for the courts shall not retain any portion of these funds to cover administrative costs. The office of the administrator for the courts, in conjunction with the juvenile court administrators, shall develop an equitable funding distribution formula. The formula shall neither reward counties with higher than average per-petition processing costs nor shall it penalize counties with lower than average per-petition processing costs.

(6) The distributions made under subsection (6) of this section and distributions from the county criminal justice assistance account made pursuant to section 801 of this act constitute appropriate reimbursement for costs for any new programs or increased level of service for purposes of RCW 43.135.060.

(7) Each fiscal year during the 2003-05 fiscal biennium, each county shall report the number of petitions processed and the total actual costs of processing truancy, children in need of services, and at-risk youth petitions. Counties shall submit the reports to the department no later than 45 days after the end of the fiscal year. The department shall electronically transmit this information to the chairs and ranking minority members of the house of representatives appropriations committee and the senate ways and means committee no later than 60 days after a fiscal year ends. These reports are deemed informational in nature and are not for the purpose of distributing funds.

(8) \$813,000 of the general fund—state appropriation for fiscal year 2004 and \$762,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for billing and related costs for the office of the administrator for the courts pursuant to Engrossed Substitute Senate Bill No. 5990 (supervision of offenders).

(9) \$1,800,000 of the public safety and education account appropriation is provided solely for distribution to the county clerks for the collection of legal financial obligations pursuant to Engrossed Substitute Senate Bill No. 5990 (supervision of offenders). The funding shall be distributed by the office of the administrator for the courts to the county clerks in accordance with the funding formula determined by the Washington association of county officials pursuant to Engrossed Substitute Senate Bill No. 5990 (supervision of offenders).

NEW SECTION. Sec. 114. FOR THE OFFICE OF PUBLIC DEFENSE

General Fund—State Appropriation (FY 2004)	\$666,000
General Fund—State Appropriation (FY 2005)	\$884,000
Public Safety and Education Account—State	
Appropriation	\$12,395,000
TOTAL APPROPRIATION	\$13,945,000

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

(1) \$51,000 of the public safety and education account appropriation is provided solely for the office of public defense's costs in implementing chapter 303, Laws of 1999 (court funding).

(2) Amounts provided from the public safety and education account appropriation in this section include funding for investigative services in death penalty personal restraint petitions.

NEW SECTION. Sec. 115. FOR THE OFFICE OF THE GOVERNOR

General Fund—State Appropriation (FY 2004)	\$3,773,000
General Fund—State Appropriation (FY 2005)	\$3,776,000
General Fund—Federal Appropriation	\$1,140,000
Water Quality Account—State	
Appropriation	\$3,854,000
TOTAL APPROPRIATION	\$12,543,000

The appropriations in this section are subject to the following conditions and limitations: \$3,854,000 of the water quality account appropriation and \$1,140,000 of the general fund—federal appropriation are provided solely for the Puget Sound water quality action team to implement the Puget Sound work plan and agency action items PSAT-01 through PSAT-05.

NEW SECTION. Sec. 116. FOR THE LIEUTENANT GOVERNOR

General Fund—State Appropriation (FY 2004)	\$549,000
General Fund—State Appropriation (FY 2005)	\$549,000
TOTAL APPROPRIATION	\$1,098,000

NEW SECTION. Sec. 117. FOR THE PUBLIC DISCLOSURE COMMISSION

General Fund—State Appropriation (FY 2004)	\$1,790,000
General Fund—State Appropriation (FY 2005)	\$1,771,000
TOTAL APPROPRIATION	\$3,561,000

NEW SECTION. Sec. 118. FOR THE SECRETARY OF STATE

General Fund—State Appropriation (FY 2004)	\$24,336,000
General Fund—State Appropriation (FY 2005)	\$17,092,000
General Fund—Federal Appropriation	\$6,967,000
Archives and Records Management Account—State Appropriation	\$8,150,000
Department of Personnel Service Account—State Appropriation	\$699,000
Election Account—Federal Appropriation	\$13,121,000
Local Government Archives Account—State Appropriation	\$7,067,000
TOTAL APPROPRIATION	\$77,432,000

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

(1) \$2,296,000 of the general fund—state appropriation for fiscal year 2004 is provided solely to reimburse counties for the state's share of primary and general election costs and the costs of conducting mandatory recounts on state measures. Counties shall be reimbursed only for those odd-year election costs that the secretary of state validates as eligible for reimbursement.

(2) \$1,826,000 of the general fund—state appropriation for fiscal year 2004 and \$2,686,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the verification of initiative and referendum petitions, maintenance of related voter registration records, and the publication and distribution of the voters and candidates pamphlet.

(3) \$125,000 of the general fund—state appropriation for fiscal year 2004 and \$118,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for legal advertising of state measures under RCW 29.27.072.

(4)(a) \$1,944,004 of the general fund—state appropriation for fiscal year 2004 and \$1,986,772 of the general fund—state appropriation for fiscal year 2005 are provided solely for contracting with a nonprofit organization to produce gavel-to-gavel television coverage of state government deliberations and other events of statewide significance during the 2003-05 biennium. The funding level for each year of the contract shall be based on the amount provided in this subsection. The nonprofit organization shall be required to raise contributions or commitments to make contributions, in cash or in kind, in an

amount equal to forty percent of the state contribution. The office of the secretary of state may make full or partial payment once all criteria in (a) and (b) of this subsection have been satisfactorily documented.

(b) The legislature finds that the commitment of on-going funding is necessary to ensure continuous, autonomous, and independent coverage of public affairs. For that purpose, the secretary of state shall enter into a four-year contract with the nonprofit organization to provide public affairs coverage through June 30, 2006.

(c) The nonprofit organization shall prepare an annual independent audit, an annual financial statement, and an annual report, including benchmarks that measure the success of the nonprofit organization in meeting the intent of the program.

(d) No portion of any amounts disbursed pursuant to this subsection may be used, directly or indirectly, for any of the following purposes:

(i) Attempting to influence the passage or defeat of any legislation by the legislature of the state of Washington, by any county, city, town, or other political subdivision of the state of Washington, or by the congress, or the adoption or rejection of any rule, standard, rate, or other legislative enactment of any state agency;

(ii) Making contributions reportable under chapter 42.17 RCW; or

(iii) Providing any: (A) Gift; (B) honoraria; or (C) travel, lodging, meals, or entertainment to a public officer or employee.

(5) \$6,038,000 of the general fund—state appropriation for fiscal year 2004 is provided solely to reimburse the counties for the state's share of the cost of conducting the presidential primary.

NEW SECTION. Sec. 119. FOR THE GOVERNOR'S OFFICE OF INDIAN AFFAIRS

General Fund—State Appropriation (FY 2004)	\$228,000
General Fund—State Appropriation (FY 2005)	\$239,000
TOTAL APPROPRIATION	\$467,000

NEW SECTION. Sec. 120. FOR THE COMMISSION ON ASIAN-AMERICAN AFFAIRS

General Fund—State Appropriation (FY 2004)	\$194,000
General Fund—State Appropriation (FY 2005)	\$194,000
TOTAL APPROPRIATION	\$388,000

NEW SECTION. Sec. 121. FOR THE STATE TREASURER

State Treasurer's Service Account—State	
Appropriation	\$13,149,000

NEW SECTION. Sec. 122. FOR THE STATE AUDITOR

General Fund—State Appropriation (FY 2004)	\$701,000
General Fund—State Appropriation (FY 2005)	\$702,000
State Auditing Services Revolving Account—State	
Appropriation	\$12,810,000
TOTAL APPROPRIATION	\$14,213,000

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

(1) Audits of school districts by the division of municipal corporations shall include findings regarding the accuracy of: (a) Student enrollment data; and (b) the experience and education of the district's certified instructional staff, as reported to the superintendent of public instruction for allocation of state funding.

(2) \$701,000 of the general fund—state appropriation for fiscal year 2004 and \$702,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for staff and related costs to verify the accuracy of reported school district data submitted for state funding purposes; conduct school district program audits of state funded public school programs; establish the specific amount of state funding adjustments whenever audit exceptions occur and the amount is not firmly established in the course of regular public school audits; and to assist the state special education safety net committee when requested.

NEW SECTION. Sec. 123. FOR THE CITIZENS' COMMISSION ON SALARIES FOR ELECTED OFFICIALS

General Fund—State Appropriation (FY 2004)	\$83,000
General Fund—State Appropriation (FY 2005)	\$157,000
TOTAL APPROPRIATION	\$240,000

NEW SECTION. Sec. 124. FOR THE ATTORNEY GENERAL

General Fund—State Appropriation (FY 2004)	\$4,057,000
General Fund—State Appropriation (FY 2005)	\$4,109,000
General Fund—Federal Appropriation	\$2,845,000
Public Safety and Education Account—State Appropriation	\$1,814,000
Tobacco Prevention and Control Account—State Appropriation	\$270,000
New Motor Vehicle Arbitration Account—State Appropriation	\$1,180,000
Legal Services Revolving Account—State Appropriation	\$165,275,000
TOTAL APPROPRIATION	\$179,550,000

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

(1) The attorney general shall report each fiscal year on actual legal services expenditures and actual attorney staffing levels for each agency receiving legal services. The report shall be submitted to the office of financial management and the fiscal committees of the senate and house of representatives no later than ninety days after the end of each fiscal year.

(2) Prior to entering into any negotiated settlement of a claim against the state that exceeds five million dollars, the attorney general shall notify the director of financial management and the chairs of the senate committee on ways and means and the house of representatives committee on appropriations.

NEW SECTION. Sec. 125. FOR THE CASELOAD FORECAST COUNCIL

General Fund—State Appropriation (FY 2004)	\$638,000
General Fund—State Appropriation (FY 2005)	\$639,000
TOTAL APPROPRIATION	\$1,277,000

NEW SECTION. Sec. 126. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

General Fund—State Appropriation (FY 2004).....	\$61,459,000
General Fund—State Appropriation (FY 2005).....	\$60,801,000
General Fund—Federal Appropriation.....	\$213,287,000
General Fund—Private/Local Appropriation.....	\$10,574,000
Public Safety and Education Account—State Appropriation.....	\$10,095,000
Public Works Assistance Account—State Appropriation.....	\$1,913,000
Building Code Council Account—State Appropriation.....	\$1,061,000
Administrative Contingency Account—State Appropriation.....	\$1,776,000
Low-Income Weatherization Assistance Account—State Appropriation.....	\$3,293,000
Violence Reduction and Drug Enforcement Account— State Appropriation.....	\$9,013,000
Manufactured Home Installation Training Account— State Appropriation.....	\$256,000
Community Economic Development Account— State Appropriation.....	\$1,909,000
Washington Housing Trust Account—State Appropriation.....	\$16,740,000
Public Facility Construction Loan Revolving Account—State Appropriation.....	\$622,000
Lead Paint Account—State Appropriation.....	\$6,000
TOTAL APPROPRIATION.....	\$392,805,000

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

(1) \$2,838,000 of the general fund—state appropriation for fiscal year 2004 and \$2,838,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for a contract with the Washington technology center. For work essential to the mission of the Washington technology center and conducted in partnership with universities, the center shall not pay any increased indirect rate nor increases in other indirect charges above the absolute amount paid during the 1995-97 fiscal biennium.

(2) \$61,000 of the general fund—state appropriation for fiscal year 2004 and \$62,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the implementation of the Puget Sound work plan and agency action item OCD-01.

(3) \$10,180,797 of the general fund—federal appropriation is provided solely for the drug control and system improvement formula grant program, to be distributed in state fiscal year 2004 as follows:

(a) \$3,551,972 to local units of government to continue multijurisdictional narcotics task forces;

(b) \$611,177 to the department to continue the drug prosecution assistance program in support of multijurisdictional narcotics task forces;

(c) \$1,343,603 to the Washington state patrol for coordination, investigative, and supervisory support to the multijurisdictional narcotics task forces and for methamphetamine education and response;

(d) \$197,154 to the department for grants to support tribal law enforcement needs;

(e) \$976,897 to the department of social and health services, division of alcohol and substance abuse, for drug courts in eastern and western Washington;

(f) \$298,246 to the department for training and technical assistance of public defenders representing clients with special needs;

(g) \$687,155 to the department to continue domestic violence legal advocacy;

(h) \$890,150 to the department of social and health services, juvenile rehabilitation administration, to continue youth violence prevention and intervention projects;

(i) \$60,000 to the department for community-based advocacy services to victims of violent crime, other than sexual assault and domestic violence;

(j) \$89,705 to the department to continue the governor's council on substance abuse;

(k) \$97,591 to the department to continue evaluation of Byrne formula grant programs;

(l) \$572,919 to the office of financial management for criminal history records improvement; and

(m) \$804,228 to the department for required grant administration, monitoring, and reporting on Byrne formula grant programs.

These amounts represent the maximum Byrne grant expenditure authority for each program. No program may expend Byrne grant funds in excess of the amounts provided in this subsection. If moneys in excess of those appropriated in this subsection become available, whether from prior or current fiscal year Byrne grant distributions, the department shall hold these moneys in reserve and may not expend them without specific appropriation. These moneys shall be carried forward and applied to the pool of moneys available for appropriation for programs and projects in the succeeding fiscal year. As part of its budget request for the succeeding year, the department shall estimate and request authority to spend any funds remaining in reserve as a result of this subsection.

(4) \$125,000 of the general fund—state appropriation for fiscal year 2004 and \$125,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for implementing the industries of the future strategy.

(5) \$200,000 of the general fund—state appropriation for fiscal year 2004 and \$200,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for a contract with the Washington manufacturing services.

(6) \$205,000 of the general fund—state appropriation for fiscal year 2004 and \$205,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for grants to Washington Columbia River Gorge counties to implement their responsibilities under the national scenic area management plan. Of this amount, \$390,000 is provided for Skamania county and \$20,000 is provided for Clark county.

(7) \$50,000 of the general fund—state appropriation for fiscal year 2004 and \$50,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for a contract with international trade alliance of Spokane.

(8) \$5,085,000 of the general fund—state appropriation for fiscal year 2004, \$5,085,000 of the general fund—state appropriation for fiscal year 2005, \$4,250,000 of the general fund—federal appropriation, and \$6,145,000 of the Washington housing trust account are provided solely for providing housing and shelter for homeless people, including but not limited to grants to operate, repair, and staff shelters; grants to operate transitional housing; partial payments for rental assistance; consolidated emergency assistance; overnight youth shelters; and emergency shelter assistance.

(9) \$697,000 of the community economic development account appropriation is provided solely for support of the developmental disabilities endowment governing board and costs of the endowment program. The governing board may use appropriations to implement a sliding-scale fee waiver for families earning below 150 percent of the state median family income.

(10) \$800,000 of the general fund—federal appropriation and \$6,000 of the lead paint account—state appropriation are provided solely to implement Engrossed Substitute Senate Bill No. 5586 (lead-based paint). If the bill is not enacted by June 30, 2003, the amounts provided in this subsection shall lapse.

(11) \$300,000 of the general fund—state appropriation for fiscal year 2004 and \$300,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the business retention and expansion program to fund contracts with locally based development organizations for local business and job retention activities.

(12) \$200,000 of the general fund—state appropriation for fiscal year 2004 and \$200,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the tourism office to market Washington state as a travel destination to northwest states, California, and British Columbia. By December 1, 2004, the department shall report to the relevant legislative policy and fiscal committees on the effectiveness of these expenditures.

(13) \$200,000 of the general fund—state appropriation for fiscal year 2004 and \$200,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for business development activities to conduct statewide and/or regional business recruitment and client lead generation services.

(14) \$60,000 of the general fund—state appropriation for fiscal year 2004 and \$60,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the community services block grant program for pass-through to community action agencies.

(15) \$26,862,000 of the general fund—state appropriation for fiscal year 2004 and \$26,862,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for providing early childhood education assistance.

(16) Within the amounts appropriated in this section, funding is provided for Washington state dues for the Pacific northwest economic region.

(17) \$200,000 of the general fund—state appropriation for fiscal year 2004 and \$200,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the foreign offices (overseas representatives) to expand local capacity for China, expand operations in Shanghai, Beijing and Hong Kong, and in Mexico to assist Washington exporters in expanding their sales opportunities.

(18) \$600,000 of the public safety and education account appropriation is provided solely for sexual assault prevention and treatment programs.

(19) \$65,000 of the general fund—state appropriation for fiscal year 2004 and \$65,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for a contract with a food distribution program for communities in the southwestern portion of the state and for workers impacted by timber and salmon fishing closures and reductions. The department may not charge administrative overhead or expenses to the funds provided in this subsection.

(20) Repayments of outstanding loans granted under RCW 43.63A.600, the mortgage and rental assistance program, shall be remitted to the department, including any current revolving account balances. The department shall contract with a lender or contract collection agent to act as a collection agent of the state. The lender or contract collection agent shall collect payments on outstanding loans, and deposit them into an interest-bearing account. The funds collected shall be remitted to the department quarterly. Interest earned in the account may be retained by the lender or contract collection agent, and shall be considered a fee for processing payments on behalf of the state. Repayments of loans granted under this chapter shall be made to the lender or contract collection agent as long as the loan is outstanding, notwithstanding the repeal of the chapter.

(21) Within amounts provided in this section, sufficient funding is provided to implement Engrossed House Bill No. 1090 (trafficking of persons).

NEW SECTION. Sec. 127. FOR THE ECONOMIC AND REVENUE FORECAST COUNCIL

General Fund—State Appropriation (FY 2004)	\$518,000
General Fund—State Appropriation (FY 2005)	\$519,000
TOTAL APPROPRIATION	\$1,037,000

NEW SECTION. Sec. 128. FOR THE OFFICE OF FINANCIAL MANAGEMENT

General Fund—State Appropriation (FY 2004)	\$12,662,000
General Fund—State Appropriation (FY 2005)	\$12,383,000
General Fund—Federal Appropriation	\$23,500,000
Violence Reduction and Drug Enforcement	
Account—State Appropriation	\$242,000
State Auditing Services Revolving	
Account—State Appropriation	\$25,000
TOTAL APPROPRIATION	\$48,812,000

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

(1) \$127,000 of the general fund—state appropriation for fiscal year 2004 and \$122,000 of the general fund—state appropriation for fiscal year 2005 are provided solely to implement Second Substitute Senate Bill No. 5694 (integrated permit system). If the bill is not enacted by June 30, 2003, the amounts provided in this subsection shall lapse.

(2) By November 15, 2003, the office of financial management shall report to the house of representatives committees on appropriations, capital budget, and transportation and to the senate committees on ways and means and highways and transportation on the ten general priorities of government upon which the 2005-07 biennial budgets will be structured. Each priority must include a proposed set of cross agency activities with definitions and outcome measures. For historical comparisons, the 2001-03 expenditures and 2003-05

appropriations must be restated in this format and organized by priority, activity, fund source, and agency.

NEW SECTION. Sec. 129. FOR THE OFFICE OF ADMINISTRATIVE HEARINGS

Administrative Hearings Revolving Account—State
Appropriation..... \$24,619,000

NEW SECTION. Sec. 130. FOR THE DEPARTMENT OF PERSONNEL

Department of Personnel Service Account—State
Appropriation..... \$16,247,000
Higher Education Personnel Services Account—State
Appropriation..... \$1,612,000
TOTAL APPROPRIATION..... \$17,859,000

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

(1) The department is authorized to enter into a financing contract for up to \$32,095,000, plus necessary financing expenses and required reserves, pursuant to chapter 39.94 RCW. The contract shall be to purchase, develop, and implement a new statewide payroll system and shall be for a term of not more than twelve years. The legislature recognizes the critical nature of the human resource management system and its relationship to successful implementation of civil service reform, collective bargaining, and the ability to permit contracting out of services to the private sector. Projects of this size and complexity have many risks associated with their successful and timely completion, therefore, to help ensure project success, the department of personnel and the office of financial management shall jointly report to the legislature by January 15, 2004, on progress toward implementing the human resource management system. The report shall include a description of mitigation strategies employed to address the risks related to: Business requirements not fully defined at the project outset; short time frame for system implementation; and delays experienced by other states. The report shall assess the probability of meeting the system implementation schedule and recommend contingency strategies as needed. The report shall establish the timelines, the critical path, and the dependencies for realizing each of the benefits articulated in the system feasibility study.

(2) The department shall coordinate with the governor's office of Indian affairs on providing one-day government to government training sessions for federal, state, local, and tribal government employees. The training sessions must cover tribal historical perspectives, legal issues, tribal sovereignty, and tribal governments. Costs of the training sessions shall be recouped through a fee charged to the participants of each session.

NEW SECTION. Sec. 131. FOR THE WASHINGTON STATE LOTTERY

Lottery Administrative Account—State
Appropriation..... \$22,743,000

The appropriation in this section is subject to the following conditions and limitations: Within the funds appropriated in this section, the lottery

commission shall provide administrative support to assist a task force to examine possible means to enhance state revenue from gaming as follows:

(1) The task force shall consist of the following members:

(a) One member from each of the two largest caucuses of the senate, appointed by the president of the senate;

(b) One member from each of the two largest caucuses of the house of representatives, appointed by the speaker of the house of representatives;

(c) The executive director of the Washington state lottery;

(d) The executive director of the Washington state gambling commission; and

(e) The governor's designee.

(2) The task force shall report its findings on possible means to enhance state revenue from gaming to the senate commerce and trade committee, the senate ways and means committee, the house of representatives commerce and labor committee, the house of representatives finance committee, and the house of representatives appropriations committee by January 5, 2004.

NEW SECTION. Sec. 132. FOR THE COMMISSION ON HISPANIC AFFAIRS

General Fund—State Appropriation (FY 2004)	\$204,000
General Fund—State Appropriation (FY 2005)	\$204,000
TOTAL APPROPRIATION	\$408,000

NEW SECTION. Sec. 133. FOR THE COMMISSION ON AFRICAN-AMERICAN AFFAIRS

General Fund—State Appropriation (FY 2004)	\$198,000
General Fund—State Appropriation (FY 2005)	\$199,000
TOTAL APPROPRIATION	\$397,000

NEW SECTION. Sec. 134. FOR THE PERSONNEL APPEALS BOARD

Department of Personnel Service Account—State Appropriation	\$1,725,000
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NEW SECTION. Sec. 135. FOR THE DEPARTMENT OF RETIREMENT SYSTEMS—OPERATIONS

Dependent Care Administrative Account—State Appropriation	\$384,000
Department of Retirement Systems Expense Account— State Appropriation	\$44,485,000
TOTAL APPROPRIATION	\$44,869,000

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

(1) \$31,000 of the retirement systems expense account appropriation is provided solely to implement House Bill No. 1519, chapter 155, Laws of 2003 (unreduced duty death survivor benefits).

(2) \$1,678,000 of the retirement systems expense account appropriation is provided solely to implement House Bill No. 2197, chapter 92, Laws of 2003 (law enforcement officers' and fire fighters' plan 2 board implementation).

(3) \$2,083,000 of the retirement systems expense account appropriation is provided solely for the support of the information systems project known as the electronic document image management system.

(4) \$124,000 of the department of retirement systems expense account—state appropriation is provided solely to implement Senate Bill No. 5094, chapter 157, Laws of 2003 (substitute employees' retirement credit).

(5) \$77,000 of the department of retirement systems expense account—state appropriation is provided solely to implement Senate Bill No. 5100, chapter 32, Laws of 2003 (fallen hero survivor benefits).

(6) \$21,000 of the department of retirement systems expense account—state appropriation is provided solely to implement House Bill No. 1206, chapter 156, Laws of 2003 (plan 3 contributions).

(7) \$30,000 of the department of retirement systems expense account—state appropriation is provided solely to implement House Bill No. 1207, chapter 402, Laws of 2003 (employee death benefits).

(8) \$324,000 of the department of retirement systems expense account—state appropriation is provided solely to implement Substitute House Bill No. 1829, chapter 412, Laws of 2003 (retire-rehire reform).

(9) \$125,000 of the department of retirement systems expense account—state appropriation is provided solely to implement Substitute House Bill No. 1202, chapter 293, Laws of 2003 (emergency medical technicians' retirement).

NEW SECTION. Sec. 136. FOR THE STATE INVESTMENT BOARD

General Fund—State Appropriation (FY 2004)	\$100,000
State Investment Board Expense Account—State Appropriation.	\$13,262,000
TOTAL APPROPRIATION	\$13,362,000

The appropriations in this section are subject to the following conditions and limitations: \$100,000 of the general fund—state appropriation for fiscal year 2004 is provided solely for a contract with a real estate investment consultant to prepare options and recommended investment strategies for surplus property at the five state residential habilitation centers, where the proceeds will be deposited into an account to fund services for developmentally disabled clients. In developing the recommended strategies for the Fircrest school property, the contractor shall identify an investment strategy that will produce a long-term investment return on the property, without sale of the land. The report shall be submitted to the appropriate committees of the legislature by December 1, 2003.

NEW SECTION. Sec. 137. FOR THE DEPARTMENT OF REVENUE

General Fund—State Appropriation (FY 2004)	\$82,644,000
General Fund—State Appropriation (FY 2005)	\$81,916,000
Timber Tax Distribution Account—State Appropriation.	\$5,191,000
Waste Education/Recycling/Litter Control—State Appropriation.	\$101,000
State Toxics Control Account—State Appropriation.	\$67,000
Oil Spill Administration Account—State Appropriation.	\$14,000

TOTAL APPROPRIATION \$169,933,000

NEW SECTION. Sec. 138. FOR THE BOARD OF TAX APPEALS

General Fund—State Appropriation (FY 2004) \$1,141,000
 General Fund—State Appropriation (FY 2005) \$988,000
 TOTAL APPROPRIATION \$2,129,000

NEW SECTION. Sec. 139. FOR THE MUNICIPAL RESEARCH COUNCIL

City and Town Research Services Account—
 State Appropriation \$3,852,000
 County Research Services Account—State
 Appropriation \$769,000
 TOTAL APPROPRIATION \$4,621,000

NEW SECTION. Sec. 140. FOR THE OFFICE OF MINORITY AND WOMEN’S BUSINESS ENTERPRISES

OMWBE Enterprises Account—State
 Appropriation \$1,990,000

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

(1) The office's revolving fund charges to state agencies may not exceed \$1,282,000.

(2) During the 2003-05 biennium, the office may receive gifts, grants, or endowments from public or private sources that are made from time to time, in trust or otherwise, for the use and benefit of the purposes of the office and spend gifts, grants, or endowments or income from the public or private sources according to their terms, unless the receipt of the gifts, grants, or endowments violates RCW 42.17.710.

(3) During fiscal year 2004, the office may raise fees in excess of the fiscal growth factor.

***NEW SECTION. Sec. 141. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

General Fund—State Appropriation (FY 2004) \$193,000
 General Fund—State Appropriation (FY 2005) \$275,000
 General Fund—Federal Appropriation \$3,215,000
 General Administration Services Account—State
 Appropriation \$38,086,000
 TOTAL APPROPRIATION \$41,769,000

The appropriations in this section are subject to the following conditions and limitations: Beginning on the effective date of this act, the department of general administration shall not purchase or lease any additional automobiles for the state motor pool unless the director of general administration determines that the purchase or lease is necessary for the safety of state personnel.

*Sec. 141 was partially vetoed. See message at end of chapter.

NEW SECTION. Sec. 142. FOR THE DEPARTMENT OF INFORMATION SERVICES

General Fund—State Appropriation (FY 2004) \$1,000,000
 General Fund—State Appropriation (FY 2005) \$1,000,000

Data Processing Revolving Account—State Appropriation	\$3,569,000
TOTAL APPROPRIATION	\$5,569,000

The appropriations in this section are subject to the following conditions and limitations: \$1,000,000 of the general fund—state appropriation for fiscal year 2004 and \$1,000,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the digital learning commons to create a demonstration project, in collaboration with schools, which will provide a web-based portal where students, parents, and teachers from around the state will have access to digital curriculum resources, learning tools, and online classes. The intent is to establish a clearinghouse of high quality online courses and curriculum materials that are aligned with the state's essential learning requirements. The clearinghouse shall be designed for ease of use and shall pool the purchasing power of the state so that these resources and courses are affordable and accessible to schools, teachers, students, and parents. These appropriations are subject to the following conditions and limitations:

(1) The funding provided in this section shall be expended primarily for acquiring online courses and curriculum materials that are aligned with the state "essential learning requirements" and that meet standards of quality. No more than ten percent of the funds provided in this subsection shall be used for administrative expenses of the digital learning commons.

(2) To the maximum extent possible, funds shall be used on demonstration projects that utilize online course materials and curricula that are already available. The commons may also consider utilizing existing products in establishing the entire digital learning commons.

(3) By September 1, 2003, the digital learning commons shall begin offering access to and reimbursement for online courses and services.

(4) In consultation with the department of information services, the office of financial management shall monitor compliance with these conditions and limitations. By February 1, 2004, the digital learning commons shall submit a report to the governor and the appropriate legislative committees detailing the types of courses and services offered and the number of students served through the digital learning commons.

NEW SECTION. Sec. 143. FOR THE INSURANCE COMMISSIONER

General Fund—Federal Appropriation	\$631,000
Insurance Commissioners Regulatory Account—State Appropriation	\$32,307,000
TOTAL APPROPRIATION	\$32,938,000

NEW SECTION. Sec. 144. FOR THE BOARD OF ACCOUNTANCY

Certified Public Accountants' Account—State Appropriation	\$1,985,000
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The appropriation in this section is subject to the following conditions and limitations: \$351,000 of the certified public accountants' account appropriation is provided solely for the implementation of Substitute House Bill No. 1211 (public accountancy act). The board may increase fees during the 2003-05 fiscal biennium in excess of the fiscal growth factor as provided in RCW 43.135.055, if the increases are necessary to fully fund the cost of administering the bill.

NEW SECTION. Sec. 145. FOR THE FORENSIC INVESTIGATION COUNCIL

Death Investigations Account—State

Appropriation. \$274,000

The appropriation in this section is subject to the following conditions and limitations: \$250,000 of the death investigation account appropriation is provided solely for providing financial assistance to local jurisdictions in multiple death investigations. The forensic investigation council shall develop criteria for awarding these funds for multiple death investigations involving an unanticipated, extraordinary, and catastrophic event or those involving multiple jurisdictions.

NEW SECTION. Sec. 146. FOR THE HORSE RACING COMMISSION

Horse Racing Commission Account—State

Appropriation. \$4,609,000

NEW SECTION. Sec. 147. FOR THE LIQUOR CONTROL BOARD

General Fund—State Appropriation (FY 2004) \$1,454,000

General Fund—State Appropriation (FY 2005) \$1,455,000

Liquor Control Board Construction and Maintenance

Account—State Appropriation \$5,717,000

Liquor Revolving Account—State

Appropriation. \$133,842,000

TOTAL APPROPRIATION \$142,468,000

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

(1) \$2,000,000 of the liquor revolving account appropriation is provided solely for the costs associated with the completion of the merchandising business system. Actual expenditures are limited to the balance of funds remaining from the \$4,803,000 appropriation provided for the merchandise business system in the 2001-03 budget.

(2) \$1,309,000 of the liquor revolving account appropriation is provided solely for the costs associated with purchasing merchandise business system software and hardware-related items, and hiring system-related staff.

(3) As required under RCW 66.16.010, the liquor control board shall add an equivalent surcharge of \$0.42 per liter on all retail sales of spirits, excluding licensee, military and tribal sales, effective no later than September 1, 2003. The intent of this surcharge is to raise \$14,000,000 in additional revenue for the 2003-05 biennium. To the extent that a lesser surcharge is sufficient to raise \$14,000,000, the board may reduce the amount of the surcharge. The board shall remove the surcharge once it generates \$14,000,000, but no later than June 30, 2005.

***NEW SECTION. Sec. 148. FOR THE UTILITIES AND TRANSPORTATION COMMISSION**

Public Service Revolving Account—State

Appropriation. \$25,872,000

Pipeline Safety Account—State

Appropriation. \$2,768,000

Pipeline Safety Account—Federal

Appropriation	\$1,041,000
TOTAL APPROPRIATION	\$29,681,000

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

(1) The commission shall report back to the appropriate policy committees of the legislature by July 1st of 2003 and 2004 a list of authorized out-of-state travel for the preceding calendar year.

(2) *Consistent with the purposes of RCW 80.01.080, the commission may accept reimbursement for travel by its employees to participate in multistate regulatory matters.*

(3) \$135,000 of the public services revolving account appropriation and \$15,000 of the pipeline safety account—state appropriation are provided solely for the implementation of the commission's financial systems project. If final approval for the project is not granted by the office of financial management, the amounts provided in this subsection shall lapse.

(4) \$200,000 of the public services revolving account appropriation is provided solely for an interagency transfer to the joint legislative audit and review committee for the implementation of Substitute House Bill No. 1013 (UTC performance audit). If the bill is not enacted by June 30, 2003, the amount provided in this subsection shall lapse.

*Sec. 148 was partially vetoed. See message at end of chapter.

NEW SECTION. Sec. 149. FOR THE BOARD FOR VOLUNTEER FIREFIGHTERS

Volunteer Firefighters' Relief and Pension

Administrative Account—State

Appropriation	\$733,000
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NEW SECTION. Sec. 150. FOR THE MILITARY DEPARTMENT

General Fund—State Appropriation (FY 2004)	\$8,486,000
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General Fund—State Appropriation (FY 2005)	\$8,223,000
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General Fund—Federal Appropriation	\$72,094,000
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General Fund—Private/Local Appropriation	\$371,000
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Enhanced 911 Account—State Appropriation	\$33,955,000
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Disaster Response Account—State Appropriation	\$190,000
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Worker and Community Right to Know Fund—State

Appropriation	\$290,000
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Nisqually Earthquake Account—State

Appropriation	\$13,128,000
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Nisqually Earthquake Account—Federal

Appropriation	\$48,725,000
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TOTAL APPROPRIATION	\$185,462,000
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The appropriations in this section are subject to the following conditions and limitations:

(1) \$190,000 of the disaster response account—state appropriation is provided solely to develop and implement a disaster grant management system. The military department shall also submit a report quarterly to the office of financial management and the legislative fiscal committees detailing information

on the disaster response account, including: (a) The amount and type of deposits into the account; (b) the current available fund balance as of the reporting date; and (c) the projected fund balance at the end of the 2003-05 biennium based on current revenue and expenditure patterns.

(2) \$10,128,000 of the Nisqually earthquake account—state appropriation and \$48,725,000 of the Nisqually earthquake account—federal appropriation are provided solely for response and recovery costs associated with the February 28, 2001, earthquake. The military department shall submit a report quarterly to the office of financial management and the legislative fiscal committees detailing earthquake recovery costs, including: (a) Estimates of total costs; (b) incremental changes from the previous estimate; (c) actual expenditures; (d) estimates of total remaining costs to be paid; and (e) estimates of future payments by biennium. This information shall be displayed by fund, by type of assistance, and by amount paid on behalf of state agencies or local organizations. The military department shall also submit a report quarterly to the office of financial management and the legislative fiscal committees detailing information on the Nisqually earthquake account, including: (a) The amount and type of deposits into the account; (b) the current available fund balance as of the reporting date; and (c) the projected fund balance at the end of the 2003-05 biennium based on current revenue and expenditure patterns.

(3) \$3,000,000 of the Nisqually earthquake account—state appropriation is provided solely to cover other response and recovery costs associated with the Nisqually earthquake that are not eligible for federal emergency management agency reimbursement. Prior to expending funds provided in this subsection, the military department shall obtain prior approval of the director of financial management. Prior to approving any single project of over \$1,000,000, the office of financial management shall notify the fiscal committees of the legislature. The military department is to submit a quarterly report detailing the costs authorized under this subsection to the office of financial management and the legislative fiscal committees.

(4) \$200,000 of the general fund—state appropriation for fiscal year 2004 and \$43,555,000 of the general fund—federal appropriation are provided solely for homeland security, to be distributed as follows:

(a) \$9,469,000 of the general fund—federal appropriation to units of local government for homeland security purposes. Any communications equipment purchased shall be consistent with standards set by the Washington state interoperability executive committee;

(b) \$200,000 of the general fund—state appropriation for fiscal year 2004 and \$200,000 of the general fund—federal appropriation to the department to conduct the terrorism consequence management program;

(c) \$100,000 of the general fund—federal appropriation to the department to conduct a critical infrastructure assessment;

(d) \$500,000 of the general fund—federal appropriation to the office of financial management for the citizen corps and the community emergency response teams;

(e) \$1,384,000 of the general fund—federal appropriation to the department to provide homeland security exercise and training opportunities to state and local governments, and to develop, monitor, coordinate, and manage statewide

homeland security programs, including required grant administration, monitoring, and reporting;

(f) \$29,917,000 of the general fund—federal appropriation for other anticipated homeland security needs. This amount shall not be allotted until a spending plan is approved by the governor's domestic security advisory group and the office of financial management;

(g) The remaining general fund—federal appropriation may be expended according to federal requirements;

(h) Federal moneys shall be carried forward and applied to the pool of moneys available for appropriation for programs and projects in the succeeding fiscal year. Funding is contingent upon receipt of federal awards. As part of its budget request in each year, the department shall estimate and request authority to spend any federal funds remaining available as a result of this subsection;

(i) The department shall submit a quarterly report to the office of financial management and the legislative fiscal committees detailing the governor's domestic security advisory group recommendations; homeland security revenues and expenditures, including estimates of total federal funding for Washington state; incremental changes from the previous estimate, planned and actual homeland security expenditures by the state and local governments with this federal funding; and matching or accompanying state or local expenditures.

NEW SECTION. Sec. 151. FOR THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

General Fund—State Appropriation (FY 2004)	\$2,362,000
General Fund—State Appropriation (FY 2005)	\$2,436,000
Department of Personnel Service Account—State	
Appropriation	\$2,542,000
TOTAL APPROPRIATION	\$7,340,000

The appropriations in this section are subject to the following conditions and limitations: \$40,000 of the general fund—state appropriation for fiscal year 2005 is provided solely for the implementation of Second Substitute Senate Bill No. 5012 (charter schools). If the bill is not enacted by June 30, 2003, the amount provided in this subsection shall lapse.

NEW SECTION. Sec. 152. FOR THE GROWTH PLANNING HEARINGS BOARD

General Fund—State Appropriation (FY 2004)	\$1,536,000
General Fund—State Appropriation (FY 2005)	\$1,467,000
TOTAL APPROPRIATION	\$3,003,000

NEW SECTION. Sec. 153. FOR THE STATE CONVENTION AND TRADE CENTER

State Convention and Trade Center Operating	
Account—State Appropriation	\$40,715,000
State Convention and Trade Center Account—State	
Appropriation	\$31,037,000
TOTAL APPROPRIATION	\$71,752,000

**PART II
HUMAN SERVICES**

NEW SECTION. Sec. 201. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES. (1) Appropriations made in this act to the department of social and health services shall initially be allotted as required by this act. Subsequent allotment modifications shall not include transfers of moneys between sections of this act except as expressly provided in this act, nor shall allotment modifications permit moneys that are provided solely for a specified purpose to be used for other than that purpose.

(2) The department of social and health services shall not initiate any services that require expenditure of state general fund moneys unless expressly authorized in this act or other law. The department may seek, receive, and spend, under RCW 43.79.260 through 43.79.282, federal moneys not anticipated in this act as long as the federal funding does not require expenditure of state moneys for the program in excess of amounts anticipated in this act. If the department receives unanticipated unrestricted federal moneys, those moneys shall be spent for services authorized in this act or in any other legislation providing appropriation authority, and an equal amount of appropriated state general fund moneys shall lapse. Upon the lapsing of any moneys under this subsection, the office of financial management shall notify the legislative fiscal committees. As used in this subsection, "unrestricted federal moneys" includes block grants and other funds that federal law does not require to be spent on specifically defined projects or matched on a formula basis by state funds.

(3) The appropriations to the department of social and health services in this act shall be expended for the programs and in the amounts specified in this act.

(4) The department is authorized to develop an integrated health care program designed to slow the progression of illness and disability and better manage Medicaid expenditures for the aged and disabled population. Under this Washington medicaid integration partnership (WMIP) the department may combine and transfer such Medicaid funds appropriated under sections 204, 206, 208, and 209 of this act as may be necessary to finance a unified health care plan for the WMIP program enrollment. The WMIP pilot projects shall not exceed a daily enrollment of 6,000 persons during the 2003-05 biennium. The amount of funding assigned to the pilot projects from each program may not exceed the average per capita cost assumed in this act for individuals covered by that program, actuarially adjusted for the health condition of persons enrolled in the pilot, times the number of clients enrolled in the pilot. In implementing the WMIP pilot projects, the department may: (a) Withhold from calculations of "available resources" as set forth in RCW 71.24.025 a sum equal to the capitated rate for individuals enrolled in the pilots; and (b) employ capitation financing and risk-sharing arrangements in collaboration with health care service contractors licensed by the office of the insurance commissioner and qualified to participate in both the medicaid and medicare programs. The department shall conduct an evaluation of the WMIP, measuring changes in participant health outcomes, changes in patterns of service utilization, participant satisfaction, participant access to services, and the state fiscal impact.

NEW SECTION. Sec. 202. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—CHILDREN AND FAMILY SERVICES PROGRAM

General Fund—State Appropriation (FY 2004)	\$231,566,000
General Fund—State Appropriation (FY 2005)	\$232,468,000
General Fund—Federal Appropriation	\$416,043,000
General Fund—Private/Local Appropriation	\$400,000
Public Safety and Education Account—	
State Appropriation	\$23,920,000
Violence Reduction and Drug Enforcement Account—	
State Appropriation	\$5,640,000
TOTAL APPROPRIATION	\$910,037,000

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

(1) \$2,271,000 of the fiscal year 2004 general fund—state appropriation, \$2,271,000 of the fiscal year 2005 general fund—state appropriation, and \$1,584,000 of the general fund—federal appropriation are provided solely for the category of services titled "intensive family preservation services."

(2) \$701,000 of the general fund—state fiscal year 2004 appropriation and \$701,000 of the general fund—state fiscal year 2005 appropriation are provided to contract for the operation of one pediatric interim care facility. The facility shall provide residential care for up to thirteen children through two years of age. Seventy-five percent of the children served by the facility must be in need of special care as a result of substance abuse by their mothers. The facility shall also provide on-site training to biological, adoptive, or foster parents. The facility shall provide at least three months of consultation and support to parents accepting placement of children from the facility. The facility may recruit new and current foster and adoptive parents for infants served by the facility. The department shall not require case management as a condition of the contract.

(3) \$375,000 of the general fund—state fiscal year 2004 appropriation, \$375,000 of the general fund—state fiscal year 2005 appropriation, and \$322,000 of the general fund—federal appropriation are provided for up to three nonfacility-based programs for the training, consultation, support, and recruitment of biological, foster, and adoptive parents of children through age three in need of special care as a result of substance abuse by their mothers, except that each program may serve up to three medically fragile nonsubstance-abuse-affected children. In selecting nonfacility-based programs, preference shall be given to programs whose federal or private funding sources have expired or that have successfully performed under the existing pediatric interim care program.

(4) The providers for the 31 HOPE beds shall be paid a \$1,000 base payment per bed per month, and reimbursed for the remainder of the bed cost only when the beds are occupied.

(5) \$125,000 of the general fund—state appropriation for fiscal year 2004 and \$125,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for a foster parent retention program. This program is directed at foster parents caring for children who act out sexually.

(6) Within funding provided for the foster care and adoption support programs, the department shall control reimbursement decisions for foster care and adoption support cases such that the aggregate average cost per case for foster care and for adoption support does not exceed the amounts assumed in the projected caseload expenditures. The department shall adjust adoption support benefits to account for the availability of the new federal adoption support tax credit for special needs children.

(7) \$50,000 of the fiscal year 2004 general fund—state appropriation and \$50,000 of the fiscal year 2005 general fund—state appropriation are provided solely for a street youth program in Spokane.

***NEW SECTION. Sec. 203. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—JUVENILE REHABILITATION PROGRAM**

General Fund—State Appropriation (FY 2004)	\$74,095,000
General Fund—State Appropriation (FY 2005)	\$72,697,000
General Fund—Federal Appropriation	\$12,062,000
General Fund—Private/Local Appropriation	\$1,098,000
Juvenile Accountability Incentive	
Account—Federal Appropriation	\$9,139,000
Violence Reduction and Drug Enforcement Account—	
State Appropriation	\$37,338,000
TOTAL APPROPRIATION	\$206,429,000

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

(1) \$695,000 of the violence reduction and drug enforcement account appropriation is provided solely for deposit in the county criminal justice assistance account for costs to the criminal justice system associated with the implementation of chapter 338, Laws of 1997 (juvenile code revisions). The amounts provided in this subsection are intended to provide funding for county adult court costs associated with the implementation of chapter 338, Laws of 1997 and shall be distributed in accordance with RCW 82.14.310.

(2) \$6,065,000 of the violence reduction and drug enforcement account appropriation is provided solely for the implementation of chapter 338, Laws of 1997 (juvenile code revisions). The amounts provided in this subsection are intended to provide funding for county impacts associated with the implementation of chapter 338, Laws of 1997 and shall be distributed to counties as prescribed in the current consolidated juvenile services (CJS) formula.

(3) \$1,204,000 of the general fund—state appropriation for fiscal year 2004, \$1,204,000 of the general fund—state appropriation for fiscal year 2005, and \$5,262,000 of the violence reduction and drug enforcement account appropriation are provided solely to implement community juvenile accountability grants pursuant to chapter 338, Laws of 1997 (juvenile code revisions). Funds provided in this subsection may be used solely for community juvenile accountability grants, administration of the grants, and evaluations of programs funded by the grants.

(4) \$2,544,000 of the violence reduction and drug enforcement account appropriation is provided solely to implement alcohol and substance abuse treatment programs for locally committed offenders. The juvenile rehabilitation

administration shall award these moneys on a competitive basis to counties that submitted a plan for the provision of services approved by the division of alcohol and substance abuse. The juvenile rehabilitation administration shall develop criteria for evaluation of plans submitted and a timeline for awarding funding and shall assist counties in creating and submitting plans for evaluation.

(5) \$100,000 of the general fund—state appropriation for fiscal year 2004 and \$100,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for a contract for expanded services of the teamchild project.

(6) \$16,000 of the general fund—state appropriation for fiscal year 2004 and \$16,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the implementation of chapter 167, Laws of 1999 (firearms on school property). The amounts provided in this subsection are intended to provide funding for county impacts associated with the implementation of chapter 167, Laws of 1999, and shall be distributed to counties as prescribed in the current consolidated juvenile services (CJS) formula.

(7) \$1,478,000 of the juvenile accountability incentive account—federal appropriation is provided solely for the continued implementation of a pilot program to provide for postrelease planning and treatment of juvenile offenders with co-occurring disorders.

(8) \$16,000 of the violence reduction and drug enforcement account appropriation is provided solely for the evaluation of the juvenile offender co-occurring disorder pilot program implemented pursuant to subsection (7) of this section.

(9) \$900,000 of the general fund—state appropriation for fiscal year 2004 and \$900,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the continued implementation of the juvenile violence prevention grant program established in section 204, chapter 309, Laws of 1999.

(10) The juvenile rehabilitation administration, in consultation with the juvenile court administrators, may agree on a formula to allow the transfer of funds among amounts appropriated for consolidated juvenile services, community juvenile accountability act grants, the chemically dependent disposition alternative, and the special sex offender disposition alternative. The juvenile rehabilitation administration shall electronically report to the legislature on the formula used and the transferred funding amounts, on a semi-annual basis, by county.

(11) For the purposes of a pilot project recommended by the family policy council, the juvenile rehabilitation administration shall provide a block grant, rather than categorical funding, for consolidated juvenile services, community juvenile accountability act grants, the chemically dependent disposition alternative, and the special sex offender disposition alternative to the Pierce county juvenile court. To evaluate the effect of decategorizing funding for youth services, the juvenile court shall do the following:

(a) Develop intermediate client outcomes according to the risk assessment tool (RAT) currently used by juvenile courts and in coordination with the juvenile rehabilitation administration and the family policy council;

(b) Track the number of youth participating in each type of service, intermediate outcomes, and the incidence of recidivism within twenty-four months of completion of services;

(c) Track similar data as in (b) of this subsection with an appropriate control group, selected in coordination with the juvenile rehabilitation administration and the family policy council;

(d) Document the process for managing block grant funds on a quarterly basis, and provide this report to the juvenile rehabilitation administration and the family policy council; and

(e) Provide an initial process evaluation to the juvenile rehabilitation administration and the family policy council by January 30, 2004, and an intermediate evaluation by December 31, 2004. The court shall develop this evaluation in consultation with the juvenile rehabilitation administration, the family policy council, and the Washington state institute for public policy.

(12) The juvenile rehabilitation administration shall allot and expend funds provided in this section by the category and budget unit structure submitted to the legislative evaluation and accountability program committee.

(13) \$308,000 of the general fund—state appropriation for fiscal year 2004 and \$875,000 of the general fund—state appropriation for fiscal year 2005 are provided solely to reimburse counties for local juvenile disposition alternatives implemented pursuant to Senate Bill No. 5903 (juvenile offender sentencing). The juvenile rehabilitation administration, in consultation with the juvenile court administrators, shall develop an equitable distribution formula for the funding provided in this subsection. The juvenile rehabilitation administration may adjust this funding level in the event that utilization rates of the disposition alternatives are lower than the level anticipated by the total appropriations to the juvenile rehabilitation administration in this section. If the bill is not enacted by June 30, 2003, the amounts provided in this subsection shall lapse.

(14) \$1,416,000 of the general fund—state appropriation for fiscal year 2004 and \$1,417,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for additional research-based services to the juvenile parole population, including quality control efforts to ensure appropriate implementation of research-based services. The juvenile rehabilitation administration shall consult with the Washington state institute for public policy in deciding which interventions to provide to the parole population and appropriate levels of quality control. Of the total general fund—state appropriation for fiscal year 2004, up to \$55,000 may be used for additional suicide precaution training for staff.

*Sec. 203 was partially vetoed. See message at end of chapter.

***NEW SECTION. Sec. 204. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—MENTAL HEALTH PROGRAM**

(1) COMMUNITY SERVICES/REGIONAL SUPPORT NETWORKS

General Fund—State Appropriation (FY 2004)	\$209,818,000
General Fund—State Appropriation (FY 2005)	\$211,317,000
General Fund—Federal Appropriation	\$384,801,000
General Fund—Local Appropriation	\$1,970,000
TOTAL APPROPRIATION	\$807,906,000

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

(a) Regional support networks shall use portions of the general fund—state appropriation for implementation of working agreements with the vocational

rehabilitation program that will maximize the use of federal funding for vocational programs.

(b) From the general fund—state appropriations in this subsection, the secretary of social and health services shall assure that regional support networks reimburse the aging and disability services administration for the general fund—state cost of medicaid personal care services that enrolled regional support network consumers use because of their psychiatric disability.

(c) \$4,222,000 of the general fund—state appropriation for fiscal year 2004, \$4,222,000 of the general fund—state appropriation for fiscal year 2005, and \$8,444,000 of the general fund—federal appropriation are provided solely for the continued operation of community residential and support services for persons whose treatment needs constitute substantial barriers to community placement and who no longer require active psychiatric treatment at an inpatient hospital level of care, no longer meet the criteria for inpatient involuntary commitment, and have been discharged from a state psychiatric hospital. Primary responsibility and accountability for provision of appropriate community support for persons placed with these funds shall reside with the mental health program and the regional support networks, with partnership and active support from the alcohol and substance abuse division and from the aging and disability services administration. The department shall continue performance-based incentive contracts to provide appropriate community support services for individuals leaving the state hospitals under this subsection. The department shall first seek to contract with regional support networks before offering a contract to any other party. The funds appropriated in this subsection shall not be considered "available resources" as defined in RCW 71.24.025 and are not subject to the standard allocation formula applied in accordance with RCW 71.24.035(13)(a).

(d) At least \$902,000 of the federal block grant funding appropriated in this subsection shall be used for the continued operation of the mentally ill offender pilot program.

(e) The department is authorized to implement a new formula for allocating available resources among the regional support networks. The distribution formula shall use the number of persons eligible for the state medical programs funded under chapter 74.09 RCW as the measure of the requirement for the number of acutely mentally ill, chronically mentally ill, severely emotionally disturbed children, and seriously disturbed in accordance with RCW 71.24.035(13)(a). The new formula shall be phased in over a period of no less than six years. Furthermore, the department shall increase the medicaid capitation rates which a regional support network would otherwise receive under the formula by an amount sufficient to maximize available federal funding, provided that the nonfederal share of the higher medicaid payment rate is provided by the regional support network from local funds. The department shall first provide the higher payment to those RSNs whose allocations under the funding formula would otherwise increase the least from the previous year's level in fiscal year 2004 and fiscal year 2005.

(f) Within funds appropriated in this subsection, the department shall contract with the Clark county regional support network for development and operation of a project demonstrating collaborative methods for providing intensive mental health services in the school setting for severely emotionally

disturbed children who are medicaid eligible. Project services are to be delivered by teachers and teaching assistants who qualify as, or who are under the supervision of, mental health professionals meeting the requirements of chapter 275-57 WAC. The department shall increase medicaid payments to the regional support network by the amount necessary to cover the necessary and allowable costs of the demonstration, not to exceed the upper payment limit specified for the regional support network in the department's medicaid waiver agreement with the federal government after meeting all other medicaid spending requirements assumed in this subsection. The regional support network shall provide the department with (i) periodic reports on project service levels, methods, and outcomes; and (ii) an intergovernmental transfer equal to the state share of the increased medicaid payment provided for operation of this project.

(g) The department shall assure that each regional support network increases spending on direct client services in fiscal years 2004 and 2005 by at least the same percentage as the total state, federal, and local funds allocated to the regional support network in those years exceed the amounts allocated to it in fiscal year 2003.

(h) The department shall reduce state funding otherwise payable to a regional support network in fiscal year 2005 by the amount by which the regional support network's total administrative expenditures as of December 31, 2002, exceed 10 percent of total funding.

(2) INSTITUTIONAL SERVICES

General Fund—State Appropriation (FY 2004)	\$94,196,000
General Fund—State Appropriation (FY 2005)	\$92,964,000
General Fund—Federal Appropriation	\$134,755,000
General Fund—Private/Local Appropriation	\$26,342,000
TOTAL APPROPRIATION	\$348,257,000

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

(a) The state mental hospitals may use funds appropriated in this subsection to purchase goods and supplies through hospital group purchasing organizations when it is cost-effective to do so.

(b) The mental health program at Western state hospital shall continue to use labor provided by the Tacoma prerelease program of the department of corrections.

(3) CIVIL COMMITMENT

General Fund—State Appropriation (FY 2004)	\$28,695,000
General Fund—State Appropriation (FY 2005)	\$32,081,000
TOTAL APPROPRIATION	\$60,776,000

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

(a) \$1,381,000 of the general fund—state appropriation for fiscal year 2004 and \$2,090,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for operational costs associated with a less restrictive step-down placement facility on McNeil Island.

(b) \$300,000 of the general fund—state appropriation for fiscal year 2004 and \$300,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for mitigation funding for jurisdictions affected by the placement of less restrictive alternative facilities for persons conditionally released from the special commitment center facility being constructed on McNeil Island. Of this amount, \$45,000 per year shall be provided to the city of Lakewood on September 1, 2003, and September 1, 2004, for police protection reimbursement at Western State Hospital and adjacent areas; up to \$45,000 per year shall be provided on September 1, 2003, and September 1, 2004, for training police personnel under chapter 12, Laws of 2001, 2nd sp. sess. (3ESSB 6151); up to \$125,000 per year shall be provided to Pierce county on September 1, 2003, and September 1, 2004, for reimbursement of additional costs; and the remaining amounts are for other documented costs by jurisdictions directly impacted by the placement of the secure community transition facility on McNeil Island. Pursuant to chapter 12, Laws of 2001, 2nd sp. sess. (3ESSB 6151), the department shall continue to work with local jurisdictions towards reaching agreement for mitigation costs.

(c) \$924,000 of the general fund—state appropriation for fiscal year 2004 and \$1,429,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for operational costs associated with a less restrictive step-down placement facility located outside of Pierce county. In selecting a site, the department is encouraged to purchase or lease a site in an industrial area close to employment opportunities and treatment services, in an effort to reduce operating expenditures related to transportation and staff time.

(4) SPECIAL PROJECTS

General Fund—Federal Appropriation \$2,082,000

(5) PROGRAM SUPPORT

General Fund—State Appropriation (FY 2004) \$2,863,000
 General Fund—State Appropriation (FY 2005) \$2,751,000
 General Fund—Federal Appropriation \$5,011,000
 TOTAL APPROPRIATION \$10,625,000

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

(a) \$113,000 of the general fund—state appropriation for fiscal year 2004, \$125,000 of the general fund—state appropriation for fiscal year 2005, and \$164,000 of the general fund—federal appropriation are provided solely for the institute for public policy to evaluate the impacts of chapter 214, Laws of 1999 (mentally ill offenders), chapter 297, Laws of 1998 (commitment of mentally ill persons), and chapter 334, Laws of 2001 (mental health performance audit).

(b) \$50,000 of the general fund—state appropriation for fiscal year 2004 and \$50,000 of the general fund—federal appropriation are provided solely for a study of the prevalence of mental illness among the state's regional support networks. The study shall examine how reasonable estimates of the prevalence of mental illness relate to the incidence of persons enrolled in medical assistance programs in each regional support network area. In conducting this study, the department shall consult with the joint legislative audit and review committee, regional support networks, community mental health providers, and mental

health consumer representatives. The department shall submit a final report on its findings to the fiscal, health care, and human services committees of the legislature by November 1, 2003.

*Sec. 204 was partially vetoed. See message at end of chapter.

***NEW SECTION. Sec. 205. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—DEVELOPMENTAL DISABILITIES PROGRAM**

(1) COMMUNITY SERVICES

General Fund—State Appropriation (FY 2004)	\$262,458,000
General Fund—State Appropriation (FY 2005)	\$268,826,000
General Fund—Federal Appropriation	\$439,489,000
Health Services Account—State	
Appropriation	\$1,038,000
TOTAL APPROPRIATION	\$971,811,000

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

(a) Any new funding for family support and high school transition along with a portion of existing funding for these programs shall be provided as supplemental security income (SSI) state supplemental payments for persons with developmental disabilities in families with taxable incomes at or below 150 percent of median family income. Individuals receiving family support or high school transition payments shall not become eligible for medical assistance under RCW 74.09.510 due solely to the receipt of SSI state supplemental payments.

(b) The health services account appropriation and \$1,038,000 of the general fund—federal appropriation are provided solely for health care benefits for home care workers with family incomes below 200 percent of the federal poverty level who are employed through state contracts for twenty hours per week or more. Premium payments for individual provider home care workers shall be made only to the subsidized basic health plan. Home care agencies may obtain coverage either through the basic health plan or through an alternative plan with substantially equivalent benefits.

(c) \$510,000 of the general fund—state appropriation for fiscal year 2004, \$784,000 of the general fund—state appropriation for fiscal year 2005, and \$1,225,000 of the general fund—federal appropriation are provided solely for community residential and support services. Funding in this subsection shall be prioritized for (i) residents of residential habilitation centers who are able to be adequately cared for in community settings and who choose to live in those community settings; and (ii) clients without residential services who are at immediate risk of institutionalization or in crisis. The department shall ensure that the average cost per day for all program services other than start-up costs shall not exceed \$300. The department shall electronically report to the appropriate committees of the legislature, within 45 days following each fiscal year quarter, the number of residents moving into community settings and the actual expenditures for all community services to support those residents.

(d) \$511,000 of the general fund—state appropriation for fiscal year 2004, \$616,000 of the general fund—state appropriation for fiscal year 2005, and \$1,073,000 of the general fund—federal appropriation are provided solely for

expanded community services for persons with developmental disabilities who also have community protection issues or are diverted or discharged from state psychiatric hospitals. The department shall ensure that the cost per day for all program services other than start-up costs shall not exceed \$300. The department shall electronically report to the appropriate committees of the legislature, within 45 days following each fiscal year quarter, the number of persons served with these additional community services, where they were residing, what kinds of services they were receiving prior to placement, and the actual expenditures for all community services to support these clients.

(e) The department may transfer funding provided in this subsection to meet the purposes of subsection (2) of this section to the extent that fewer residents of residential habilitation centers choose to move to community placements than was assumed in this appropriation.

(f) \$3,290,000 of the general fund—state appropriation for fiscal year 2004, \$4,773,000 of the general fund—state appropriation for fiscal year 2005, and \$7,504,000 of the general fund—federal appropriation are provided solely for the purpose of providing a wage increase effective October 1, 2003, for individual home care workers providing state-funded services. The amounts in this subsection also include the funds needed for the employer share of unemployment and social security taxes on the amount of the increase.

(g) \$355,000 of the general fund—state appropriation for fiscal year 2004, \$517,000 of the general fund—state appropriation for fiscal year 2005, and \$848,000 of the general fund—federal appropriation are provided solely to increase payments to agency home care providers from \$13.44 per hour to \$14.27 per hour effective October 1, 2003. The amounts in this subsection shall be used to increase wages for direct care workers by 75 cents per hour. The amounts in this subsection also include the funds needed for the employer share of unemployment and social security taxes on the amount of the increase.

(h) The department, in consultation with representatives of community residential service providers and clients served in residential settings, shall review current rules and policies regarding residential services to identify rules that are redundant or unnecessary. The department may modify or repeal rules that are identified as redundant or unnecessary. The department shall report electronically on any rule changes to the appropriate committees of the legislature by July 1, 2004.

(2) INSTITUTIONAL SERVICES

General Fund—State Appropriation (FY 2004)	\$71,862,000
General Fund—State Appropriation (FY 2005)	\$70,926,000
General Fund—Federal Appropriation	\$144,682,000
General Fund—Private/Local Appropriation	\$11,228,000
TOTAL APPROPRIATION	\$298,698,000

The appropriations in this subsection are subject to the following conditions and limitations: The department may transfer funding provided in this subsection to meet the purposes of subsection (1) of this section to the extent that more residents of residential habilitation centers choose to move to community placements than was assumed in this appropriation.

(3) PROGRAM SUPPORT

General Fund—State Appropriation (FY 2004)	\$2,245,000
General Fund—State Appropriation (FY 2005)	\$2,245,000
General Fund—Federal Appropriation	\$2,965,000
Telecommunications Devices for the Hearing and Speech Impaired Account Appropriation	\$1,782,000
TOTAL APPROPRIATION	\$9,237,000

(4) SPECIAL PROJECTS

General Fund—Federal Appropriation	\$11,993,000
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*Sec. 205 was partially vetoed. See message at end of chapter.

NEW SECTION. Sec. 206. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—AGING AND ADULT SERVICES PROGRAM

General Fund—State Appropriation (FY 2004)	\$557,645,000
General Fund—State Appropriation (FY 2005)	\$570,669,000
General Fund—Federal Appropriation	\$1,162,511,000
General Fund—Private/Local Appropriation	\$18,644,000
Health Services Account—State Appropriation	\$4,888,000
TOTAL APPROPRIATION	\$2,314,357,000

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

(1) The entire health services account appropriation, \$1,476,000 of the general fund—state appropriation for fiscal year 2004, \$1,476,000 of the general fund—state appropriation for fiscal year 2005, and \$7,284,000 of the general fund—federal appropriation are provided solely for health care benefits for home care workers who are employed through state contracts for at least twenty hours per week. Premium payments for individual provider home care workers shall be made only to the subsidized basic health plan, and only for persons with incomes below 200 percent of the federal poverty level. Home care agencies may obtain coverage either through the basic health plan or through an alternative plan with substantially equivalent benefits.

(2) \$1,768,000 of the general fund—state appropriation for fiscal year 2004 and \$1,768,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for operation of the volunteer chore services program.

(3) For purposes of implementing chapter 74.46 RCW, the weighted average nursing facility payment rate shall be no more than \$144.54 for fiscal year 2004, and no more than \$147.43 for fiscal year 2005. For all facilities, the direct care, therapy care, support services, and operations component rates established in accordance with chapter 74.46 RCW shall be adjusted for economic trends and conditions by 3.0 percent effective July 1, 2003.

(4) In accordance with chapter 74.46 RCW, the department shall issue certificates of capital authorization that result in up to \$32 million of increased asset value completed and ready for occupancy in fiscal year 2004; up to \$32 million of increased asset value completed and ready for occupancy in fiscal year 2005; and up to \$32 million of increased asset value completed and ready for occupancy in fiscal year 2006.

(5) Adult day health services shall not be considered a duplication of services for persons receiving care in long-term care settings licensed under chapter 18.20, 72.36, or 70.128 RCW.

(6) In accordance with chapter 74.39 RCW, the department may implement a medicaid waiver program for persons who do not qualify for such services as categorically needy, subject to federal approval and the following conditions and limitations:

(a) The waiver program shall include coverage of care in community residential facilities. Enrollment in the waiver shall not exceed 600 persons by the end of fiscal year 2004, nor 600 persons by the end of fiscal year 2005.

(b) The department shall identify the number of medically needy nursing home residents, and enrollment and expenditures on the medically needy waiver, on monthly management reports.

(c) The department shall track and electronically report to health care and fiscal committees of the legislature by November 15, 2004, on the types of long-term care support a sample of waiver participants were receiving prior to their enrollment in the waiver, how those services were being paid for, and an assessment of their adequacy.

(7) \$118,000 of the general fund—state appropriation for fiscal year 2004, \$118,000 of the general fund—state appropriation for fiscal year 2005, and \$236,000 of the general fund—federal appropriation are provided solely for the department to assess at least annually each elderly resident residing in residential habilitation centers and state-operated living alternatives to determine if the resident can be more appropriately served in a less restrictive setting.

(a) The department shall consider the proximity to the resident of the family, friends, and advocates concerned with the resident's well-being in determining whether the resident should be moved from a residential habilitation center to a different facility or program.

(b) In assessing an elderly resident under this section and to ensure appropriate placement, the department shall identify the special needs of the resident, the types of services that will best meet those needs, and the type of facility that will best provide those services.

(c) The appropriate interdisciplinary team shall conduct the evaluation.

(d) If appropriate, the department shall coordinate with the local mental health authority.

(e) The department may explore whether an enhanced rate is needed to serve this population.

(8) Within funds appropriated in this section, the department may assess nursing facility residents with Alzheimer's disease or related dementias to determine whether such residents can be more appropriately served in licensed boarding home facilities that specialize in caring for such conditions. The department may, based upon the assessments and within existing funds, pay dementia pilot project rates on behalf of up to 200 additional persons with Alzheimer's disease or related dementias who move from nursing facilities to specialized boarding homes.

(9) The department shall establish waiting lists to the extent necessary to assure that annual expenditures on the community options program entry systems (COPES) program do not exceed appropriated levels. In establishing and managing any such waiting list, the department shall assure priority access

to persons with the greatest unmet needs, as determined by department assessment processes.

(10) \$7,102,000 of the general fund—state appropriation for fiscal year 2004, \$10,065,000 of the general fund—state appropriation for fiscal year 2005, and \$17,029,000 of the general fund—federal appropriation are provided solely for the purpose of providing a wage increase effective October 1, 2003, for individual home care workers providing state-funded services. The amounts in this subsection also include the funds needed for the employer share of unemployment and social security taxes on the amount of the increase.

(11) \$2,219,000 of the general fund—state appropriation for fiscal year 2004, \$3,192,000 of the general fund—state appropriation for fiscal year 2005, and \$5,263,000 of the general fund—federal appropriation are provided solely to increase payments to agency home care providers from \$13.44 per hour to \$14.27 per hour effective October 1, 2003. The amounts in this subsection shall be used to increase wages for direct care workers by 75 cents per hour. The amounts in this subsection also include the funds needed for the employer share of unemployment and social security taxes on the amount of the increase.

NEW SECTION. Sec. 207. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—ECONOMIC SERVICES PROGRAM

General Fund—State Appropriation (FY 2004)	\$408,184,000
General Fund—State Appropriation (FY 2005)	\$407,363,000
General Fund—Federal Appropriation	\$1,209,758,000
General Fund—Private/Local Appropriation	\$33,880,000
TOTAL APPROPRIATION	\$2,059,185,000

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

(1) \$273,652,000 of the general fund—state appropriation for fiscal year 2004, \$273,695,000 of the general fund—state appropriation for fiscal year 2005, and \$1,000,222,000 of the general fund—federal appropriation are provided solely for all components of the WorkFirst program. Within the amounts provided for the WorkFirst program, the department shall:

(a) Continue to implement WorkFirst program improvements that are designed to achieve progress against outcome measures specified in RCW 74.08A.410. Valid outcome measures of job retention and wage progression shall be developed and reported quarterly to appropriate fiscal and policy committees of the legislature for families who leave assistance, measured after 12 months, 24 months, and 36 months. The department shall also report the percentage of families who have returned to temporary assistance for needy families after 12 months, 24 months, and 36 months;

(b) Submit a report by October 1, 2003, to the fiscal committees of the legislature containing a spending plan for the WorkFirst program. The plan shall identify how spending levels in the 2003-2005 biennium will be adjusted to stay within available federal grant levels and the appropriated state-fund levels; and

(c) Include an urban adjustment factor for child care providers in urban areas of region 1.

(2) \$45,639,000 of the general fund—state appropriation for fiscal year 2004 and \$39,335,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for cash assistance and other services to recipients in

the general assistance—unemployable program. Within these amounts, the department may expend funds for services that assist recipients to reduce their dependence on public assistance, provided that expenditures for these services and cash assistance do not exceed the funds provided.

(3) \$1,436,000 of the general fund—state appropriation for fiscal year 2004 and \$1,436,000 of the general fund—state appropriation for fiscal year 2005 are provided for the department to assist in naturalization efforts for legal aliens whose eligibility for federal supplemental security income has expired. The department shall use funding previously spent on general assistance employment supports for these naturalization services.

(4) \$3,940,000 of the general fund—state appropriation for fiscal year 2004 and \$3,940,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the food assistance program for legal immigrants. The level of benefits shall be equivalent to the benefits provided by the federal food stamp program.

(5) \$9,142,000 of the general fund—federal appropriation is provided solely for increased reimbursement of county legal-clerk services for child support enforcement. The department shall ensure this increase in cost does not reduce federal incentive payments.

(6) In reviewing the budget for the division of child support, the legislature has conducted a review of the Washington state child support schedule, chapter 26.19 RCW, and supporting documentation as required by federal law. The legislature concludes that the application of the support schedule continues to result in the correct amount of child support to be awarded. No further changes will be made to the support schedule or the economic table at this time.

NEW SECTION. Sec. 208. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—ALCOHOL AND SUBSTANCE ABUSE PROGRAM

General Fund—State Appropriation (FY 2004)	\$40,320,000
General Fund—State Appropriation (FY 2005)	\$40,320,000
General Fund—Federal Appropriation	\$90,632,000
General Fund—Private/Local Appropriation	\$630,000
Public Safety and Education Account—State Appropriation	\$7,160,000
Criminal Justice Treatment Account—State Appropriation	\$8,950,000
Violence Reduction and Drug Enforcement Account— State Appropriation	\$44,342,000
TOTAL APPROPRIATION	\$232,354,000

The appropriations in this section are subject to the following conditions and limitations: \$966,197 of the general fund—state appropriation for fiscal year 2004 and \$966,197 of the general fund—state appropriation for fiscal year 2005 are provided solely for the parent child assistance program. The department shall contract with the University of Washington and community-based providers in Spokane and Yakima for the provision of this program. For all contractors, indirect charges for administering the program shall not exceed ten percent of the total contract amount.

***NEW SECTION. Sec. 209. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—MEDICAL ASSISTANCE PROGRAM**

General Fund—State Appropriation (FY 2004)	\$1,184,774,000
General Fund—State Appropriation (FY 2005)	\$1,265,423,000
General Fund—Federal Appropriation	\$3,764,258,000
General Fund—Private/Local Appropriation	\$262,736,000
Emergency Medical Services and Trauma Care Systems	
Trust Account—State Appropriation	\$23,700,000
Health Services Account—State Appropriation	\$756,012,000
TOTAL APPROPRIATION	\$7,256,903,000

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

(1) Based on quarterly expenditure reports and caseload forecasts, if the department estimates that expenditures for the medical assistance program will exceed the appropriations, the department shall take steps including but not limited to reduction of rates or elimination of optional services to reduce expenditures so that total program costs do not exceed the annual appropriation authority.

(2) The department shall continue to extend medicaid eligibility to children through age 18 residing in households with incomes below 200 percent of the federal poverty level.

(3) In determining financial eligibility for medicaid-funded services, the department is authorized to disregard recoveries by Holocaust survivors of insurance proceeds or other assets, as defined in RCW 48.104.030.

(4) \$999,000 of the health services account appropriation for fiscal year 2004, \$1,519,000 of the health services account appropriation for fiscal year 2005, and \$2,142,000 of the general fund—federal appropriation are provided solely for implementation of a "ticket to work" medicaid buy-in program for working persons with disabilities, operated in accordance with the following conditions:

(a) To be eligible, a working person with a disability must have total income which is less than 450 percent of poverty;

(b) Participants shall participate in the cost of the program by paying (i) a monthly enrollment fee equal to fifty percent of any unearned income in excess of the medicaid medically needy standard; and (ii) a monthly premium equal to 5 percent of all unearned income, plus 5 percent of all earned income after disregarding the first sixty-five dollars of monthly earnings, and half the remainder;

(c) The department shall establish more restrictive eligibility standards than specified in this subsection to the extent necessary to operate the program within appropriated funds; and

(d) The department may require point-of-service copayments as appropriate, except that copayments shall not be so high as to discourage appropriate service utilization, particularly of prescription drugs needed for the treatment of psychiatric conditions.

(5) Sufficient funds are appropriated in this section for the department to continue podiatry services for medicaid-eligible adults.

(6) Sufficient funds are appropriated in this section for the department to provide an adult dental benefit equivalent to approximately 75 percent of the dental benefit provided during the 2001-03 biennium. The department shall establish the scope of services to be provided within the available funds in consultation with dental providers and consumer representatives.

(7) The legislature reaffirms that it is in the state's interest for Harborview medical center to remain an economically viable component of the state's health care system.

(8) In accordance with RCW 74.46.625, \$52,057,000 of the fiscal year 2004 health services account appropriation, \$35,016,000 of the fiscal year 2005 health services account appropriation, and \$87,074,000 of the general fund—federal appropriation are provided solely for supplemental payments to nursing homes operated by rural public hospital districts. The payments shall be conditioned upon (a) a contractual commitment by the association of public hospital districts and participating rural public hospital districts to make an intergovernmental transfer to the state treasurer, for deposit into the health services account, equal to at least 94.5 percent of the supplemental payments; (b) a contractual commitment by the association of public hospital districts to return at least 5.5 percent of the supplemental payments to the participating rural hospital districts; and (c) a contractual commitment by the participating districts to not allow expenditures covered by the supplemental payments to be used for medicaid nursing home rate setting. A hospital which does not participate in the supplemental payment intergovernmental transfer budgeted for fiscal year 2003 shall not be eligible to participate in the supplemental payments budgeted in this subsection for fiscal years 2004 and 2005. The participating districts shall retain no more than a total of \$9,600,000 for the 2003-05 biennium.

(9) \$14,616,000 of the health services account appropriation for fiscal year 2004, \$12,394,000 of the health services account appropriation for fiscal year 2005, and \$27,010,000 of the general fund—federal appropriation are provided solely for additional disproportionate share and medicare upper payment limit payments to public hospital districts and to the state's teaching hospitals. The payments shall be conditioned upon a contractual commitment by the participating public hospitals to make an intergovernmental transfer to the health services account equal to at least 91 percent of the additional payments. The state's teaching hospitals shall retain at least 28 percent of the amounts retained by hospitals under these programs, or the maximum allowable under the teaching hospitals' limits as established under federal rule, whichever is less.

(10) \$3,100,000 of the health services account appropriation, \$8,416,000 of the general fund—local appropriation, and \$11,516,000 of the general fund—federal appropriation are provided solely for grants to rural hospitals. The department shall distribute the funds under a formula that provides a relatively larger share of the available funding to hospitals that (a) serve a disproportionate share of low-income and medically indigent patients and (b) have relatively smaller net financial margins, to the extent allowed by the federal medicaid program.

(11) \$26,080,000 of the health services account appropriation and \$26,080,000 of the general fund—federal appropriation are provided solely for grants to nonrural hospitals. The department shall distribute the funds under a formula that provides a relatively larger share of the available funding to

hospitals that (a) serve a disproportionate share of low-income and medically indigent patients and (b) have relatively smaller net financial margins, to the extent allowed by the federal medicaid program.

(12) The department shall separately track the total amount of any rebates obtained from drug manufacturers that are supplemental to the amounts required by federal law. The department shall report to the fiscal committees of the house of representatives and senate by January 15, 2004, and by January 15, 2005, on supplemental rebates negotiated to date, and their projected value through the end of the current and the next succeeding fiscal year. The report shall include options for using any rebate amounts in excess of those assumed in this budget to increase pharmacy reimbursement rates.

(13) \$156,000 of the general fund—state appropriation for fiscal year 2004 and \$1,403,000 of the general fund—federal appropriation are provided solely for a study to assess alternatives for replacing the existing medicaid management information system. The department shall report to the information services board and to the fiscal committees of the legislature by December 1, 2003, on the anticipated costs and benefits of the major alternative approaches.

(14) The department shall implement a combination of cost containment and utilization strategies sufficient to reduce general fund—state costs for durable medical equipment and supplies in fiscal year 2005 by approximately 5 percent below the level projected for fiscal year 2005 in the February 2003 forecast. In designing strategies, the primary strategy considered shall be selective or direct contracting with durable medical equipment and supplies vendors or manufacturers.

(15) The department shall, within available resources, design and implement a medical care services care management pilot project for clients receiving general assistance benefits. The pilot project shall be operated in at least two of the counties with the highest concentration of general assistance clients, and may use a full or partial capitation model. In designing the project, the department shall consult with the mental health division and its managed care contractors that include community and migrant health centers in their provider network. The pilot project shall be designed to maximize care coordination, high-risk medical management, and chronic care management to achieve better health outcomes. The pilot project shall begin enrollment on July 1, 2004.

(16) Within available resources and to the extent possible, the department shall evaluate and pilot a nurse consultant services program to assist fee-for-service clients in accessing medical information, with the goal of reducing administrative burdens on physicians and unnecessary emergency room utilization.

(17) The department shall include in any pending medicaid reform section 1115 waiver application, or in any existing section 1115 waiver, a request for authorization to provide optional medicaid services that have been eliminated in this act to American Indian and Alaska Native persons as defined in relevant federal law who are eligible for medicaid only to the extent that such services are provided through the American Indian health system and are financed with one hundred percent federal medicaid matching funds.

(18) The department shall establish managed care rates within available funds, giving specific consideration to each plan's programmatic and financial performance, and ability to assure access in under-served areas.

(19) The department of social and health services, the office of the superintendent of public instruction, and the department of health should jointly identify opportunities for early intervention and prevention activities that can help prevent disease and reduce oral health issues among children. Disease prevention among infants at the age of one year and among children entering the K-12 education system provides cost-effective ways to avoid higher health care spending later in life.

(20) The department shall secure a federal waiver, effective no later than September 1, 2003, which will enable it to charge co-premiums for medical and dental coverage of children whose family incomes exceed the federal poverty level.

(21) For purposes of RCW 74.09.800(2), \$9,549,000 of the general fund—state appropriation for fiscal year 2004, \$10,779,000 of the general fund—state appropriation for fiscal year 2005, and \$37,753,000 of the general fund—federal appropriation are provided solely to provide prenatal care services to low-income women who are not eligible to receive such services under the medical assistance program, Title XIX of the federal social security act. If the department is unable to secure federal matching funds under Title XXI of the social security act, the department shall take all actions necessary to manage the program within these appropriated levels.

*Sec. 209 was partially vetoed. See message at end of chapter.

NEW SECTION. Sec. 210. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—VOCATIONAL REHABILITATION PROGRAM

General Fund—State Appropriation (FY 2004).....	\$10,180,000
General Fund—State Appropriation (FY 2005).....	\$10,202,000
General Fund—Federal Appropriation.....	\$85,803,000
General Fund—Local Appropriation.....	\$440,000
TOTAL APPROPRIATION.....	\$106,625,000

NEW SECTION. Sec. 211. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—ADMINISTRATION AND SUPPORTING SERVICES PROGRAM

General Fund—State Appropriation (FY 2004).....	\$35,926,000
General Fund—State Appropriation (FY 2005).....	\$25,968,000
General Fund—Federal Appropriation.....	\$45,752,000
General Fund—Private/Local Appropriation.....	\$810,000
TOTAL APPROPRIATION.....	\$108,456,000

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

(1) \$467,000 of the general fund—state appropriation for fiscal year 2004, \$769,000 of the general fund—state appropriation for fiscal year 2005, and \$1,236,000 of the general fund—federal appropriation are provided solely for transition costs associated with the downsizing effort at Fircrest school. The department shall organize the downsizing effort so as to minimize disruption to clients, employees, and the developmental disabilities program. The employees

responsible for the downsizing effort shall report to the assistant secretary of the aging and disability services administration. Within the funds provided in this subsection, the department shall:

- (a) Determine appropriate ways to maximize federal reimbursement during the downsizing process;
- (b) Meet and confer with representatives of affected employees on how to assist employees who need help to relocate to other state jobs or to transition to private sector positions;
- (c) Review opportunities for state employees to continue caring for clients by assisting them in developing privately operated community residential alternatives. In conducting the review, the department will examine efforts in this area pursued by other states as part of institutional downsizing efforts;
- (d) Keep appropriate committees of the legislature apprised, through regular reports and periodic e-mail updates, of the development of and revisions to the work plan regarding this downsizing effort; and
- (e) Provide a preliminary transition plan to the fiscal and policy committees of the legislature by January 1, 2004. The transition plan shall include recommendations on ways to continue to provide some of the licensed professional services offered at Fircrest school to clients being served in community settings.

(2) \$10,000,000 of the general fund—state appropriation for fiscal year 2004 is provided solely for one-time expenditures needed to meet the federally required level for state supplemental payments (SSP). The department shall transfer appropriate portions of this amount to other programs within the agency to accomplish this purpose. The department shall not initiate new services with this funding that will cause total future SSP expenditures to exceed the required annual maintenance-of-effort level.

NEW SECTION. Sec. 212. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—PAYMENTS TO OTHER AGENCIES PROGRAM

General Fund—State Appropriation (FY 2004)	\$42,011,000
General Fund—State Appropriation (FY 2005)	\$42,011,000
General Fund—Federal Appropriation	\$41,994,000
TOTAL APPROPRIATION	\$126,016,000

NEW SECTION. Sec. 213. FOR THE STATE HEALTH CARE AUTHORITY

State Health Care Authority Administrative	
Account—State Appropriation	\$17,665,000
Health Services Account—State Appropriation	\$415,459,000
General Fund—Federal Appropriation	\$3,307,000
Medical Aid Account—State Appropriation	\$128,000
TOTAL APPROPRIATION	\$436,559,000

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

- (1) \$6,000,000 of the health services account—state appropriation is provided solely to increase the number of persons not eligible for medicaid receiving dental care from nonprofit community clinics, and for interpreter

services to support dental and medical services for persons for whom interpreters are not available from any other source.

(2) In order to maximize the number of enrollees who can be supported within appropriated amounts, the health care authority is directed to make modifications that will reduce the actuarial value of the basic health plan benefit by approximately 18 percent effective January 1, 2004. Modifications may include changes in enrollee premium obligations, enrollee cost-sharing, benefits, and incentives to access preventative services. To the extent that additional actions are needed in order to operate within appropriated funds, new enrollments to the program shall be limited in a manner consistent with the authority's September 6, 2001, administrative policy on basic health plan enrollment management.

(3) Within funds appropriated in this section and sections 205 and 206 of this act, the health care authority shall continue to provide an enhanced basic health plan subsidy for foster parents licensed under chapter 74.15 RCW and workers in state-funded home care programs. Under this enhanced subsidy option, foster parents and home care workers with family incomes below 200 percent of the federal poverty level shall be allowed to enroll in the basic health plan at the minimum premium amount charged to enrollees with incomes below sixty-five percent of the federal poverty level.

(4) The health care authority shall require organizations and individuals which are paid to deliver basic health plan services and which choose to sponsor enrollment in the subsidized basic health plan to pay 133 percent of the premium amount which would otherwise be due from the sponsored enrollees.

(5) The administrator shall take at least the following actions to assure that persons participating in the basic health plan are eligible for the level of assistance they receive: (a) Require submission of income tax returns, and recent pay history, from all applicants; (b) check employment security payroll records at least once every twelve months on all enrollees; (c) require enrollees whose income as indicated by payroll records exceeds that upon which their subsidy is based to document their current income as a condition of continued eligibility; (d) require enrollees for whom employment security payroll records cannot be obtained to document their current income at least once every six months; (e) not reduce gross family income for self-employed persons by noncash-flow expenses such as, but not limited to, depreciation, amortization, and home office deductions, as defined by the United States internal revenue service; and (f) pursue repayment and civil penalties from persons who have received excessive subsidies, as provided in RCW 70.47.060(9).

(6) To decrease administrative burdens for providers and plans participating in state purchased health care programs, the administrator, the assistant secretary for the medical assistance administration of the department of social and health services, and the director of the department of labor and industries, in collaboration with health carriers, health care providers, and the office of the insurance commissioner shall, within available resources:

(a) Improve the timeliness of claims processing and the distribution of medical assistance program fee schedules, and more clearly define the scope of coverage under managed care contracts;

(b) Improve the capacity for electronic billing and claims submission and provide electronic access to eligibility, benefits, and exclusion information;

(c) Develop clear audit and data requirements for contracting managed health care plans and improve consistency between claims processing and published fee schedules;

(d) Conform billing codes with providers and between agencies with national and regional standards wherever possible; and

(e) Take steps to implement cost-effective measures pursuant to this section by December 2004, and on or before December 1, 2003, provide a progress report to the relevant policy and fiscal committees of the legislature on the feasibility of implementation and any fiscal constraints or regulatory or statutory barriers.

NEW SECTION. Sec. 214. FOR THE HUMAN RIGHTS COMMISSION

General Fund—State Appropriation (FY 2004)	\$2,368,000
General Fund—State Appropriation (FY 2005)	\$2,407,000
General Fund—Federal Appropriation	\$1,509,000
General Fund—Private/Local Appropriation	\$100,000
TOTAL APPROPRIATION	\$6,384,000

NEW SECTION. Sec. 215. FOR THE BOARD OF INDUSTRIAL INSURANCE APPEALS

Worker and Community Right-to-Know Account—State

Appropriation	\$20,000
Accident Account—State Appropriation	\$15,065,000
Medical Aid Account—State Appropriation	\$15,064,000
TOTAL APPROPRIATION	\$30,149,000

NEW SECTION. Sec. 216. FOR THE CRIMINAL JUSTICE TRAINING COMMISSION

Municipal Criminal Justice Assistance Account—

Local Appropriation	\$460,000
Death Investigations Account—State	
Appropriation	\$148,000
Public Safety and Education Account—State	
Appropriation	\$18,078,000
TOTAL APPROPRIATION	\$18,686,000

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

(1) \$124,000 of the public safety and education account appropriation is provided solely to allow the Washington association of sheriffs and police chiefs to increase the technical and training support provided to the local criminal justice agencies on the new incident-based reporting system and the national incident-based reporting system.

(2) \$136,000 of the public safety and education account appropriation is provided solely to allow the Washington association of prosecuting attorneys to enhance the training provided to criminal justice personnel.

(3) \$65,000 of the public safety and education account appropriation is provided solely for regionalized training programs for school district and local law enforcement officials on school safety issues.

(4) \$250,000 of the public safety and education account appropriation is provided solely to the Washington association of sheriffs and police chiefs for staffing and support of a web site to provide information about sex offenders.

***NEW SECTION. Sec. 217. FOR THE DEPARTMENT OF LABOR AND INDUSTRIES**

General Fund—State Appropriation (FY 2004)	\$5,863,000
General Fund—State Appropriation (FY 2005)	\$5,860,000
Public Safety and Education Account—State Appropriation	\$22,391,000
Public Safety and Education Account—Federal Appropriation	\$8,462,000
Asbestos Account—State Appropriation	\$693,000
Electrical License Account—State Appropriation	\$28,966,000
Farm Labor Revolving Account—Private/Local Appropriation	\$28,000
Worker and Community Right-to-Know Account—State Appropriation	\$2,544,000
Public Works Administration Account—State Appropriation	\$2,411,000
Accident Account—State Appropriation	\$187,843,000
Accident Account—Federal Appropriation	\$13,396,000
Medical Aid Account—State Appropriation	\$186,724,000
Medical Aid Account—Federal Appropriation	\$2,960,000
Plumbing Certificate Account—State Appropriation	\$1,451,000
Pressure Systems Safety Account—State Appropriation	\$2,807,000
TOTAL APPROPRIATION	\$472,399,000

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

(1) Pursuant to RCW 7.68.015, the department shall operate the crime victims compensation program within the public safety and education account funds appropriated in this section. In the event that cost containment measures are necessary, the department may (a) institute copayments for services; (b) develop preferred provider contracts; or (c) implement other cost containment measures. Cost containment measures shall not include holding invoices received in one fiscal period for payment from appropriations in subsequent fiscal periods. No more than \$5,248,000 of the public safety and education account appropriation shall be expended for department administration of the crime victims compensation program.

(2) \$90,000 of the electrical license account—state appropriation and \$206,000 of the plumbing certificate account—state appropriation are provided solely to implement Engrossed Substitute Senate Bill No. 5713 (electrical contractors). If the bill is not enacted by June 30, 2003, the amounts provided in this subsection shall lapse.

(3) \$378,000 of the accident account—state appropriation is provided solely for the purpose of contracting with medical laboratories, health care providers,

and other appropriate entities to provide cholinesterase medical monitoring of farm workers who handle cholinesterase-inhibiting pesticides, and to collect and analyze data related to such monitoring.

*Sec. 217 was partially vetoed. See message at end of chapter.

NEW SECTION. Sec. 218. FOR THE INDETERMINATE SENTENCE REVIEW BOARD

General Fund—State Appropriation (FY 2004)	\$980,000
General Fund—State Appropriation (FY 2005)	\$980,000
TOTAL APPROPRIATION	\$1,960,000

NEW SECTION. Sec. 219. FOR THE DEPARTMENT OF VETERANS AFFAIRS

(1) HEADQUARTERS

General Fund—State Appropriation (FY 2004)	\$1,527,000
General Fund—State Appropriation (FY 2005)	\$1,528,000
Charitable, Educational, Penal, and Reformatory Institutions Account—State Appropriation	\$11,000
TOTAL APPROPRIATION	\$3,066,000

(2) FIELD SERVICES

General Fund—State Appropriation (FY 2004)	\$2,579,000
General Fund—State Appropriation (FY 2005)	\$2,579,000
General Fund—Federal Appropriation	\$309,000
General Fund—Private/Local Appropriation	\$1,668,000
TOTAL APPROPRIATION	\$7,135,000

(3) INSTITUTIONAL SERVICES

General Fund—State Appropriation (FY 2004)	\$7,473,000
General Fund—State Appropriation (FY 2005)	\$5,890,000
General Fund—Federal Appropriation	\$27,207,000
General Fund—Private/Local Appropriation	\$27,822,000
TOTAL APPROPRIATION	\$68,392,000

NEW SECTION. Sec. 220. FOR THE HOME CARE QUALITY AUTHORITY

General Fund—State Appropriation (FY 2004)	\$412,000
General Fund—State Appropriation (FY 2005)	\$259,000
TOTAL APPROPRIATION	\$671,000

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

(1) \$150,000 of the general fund—state appropriation for fiscal year 2004 is provided solely for the design and development of the home care provider registry mandated by Initiative Measure No. 775.

(2) Pursuant to RCW 74.39A.300(1), the legislature rejects the collective bargaining agreement entered into by the home care quality authority and the exclusive bargaining representative of individual providers under chapter 74.39A RCW (Initiative Measure No. 775).

NEW SECTION. Sec. 221. FOR THE DEPARTMENT OF HEALTH

General Fund—State Appropriation (FY 2004)	\$58,143,000
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General Fund—State Appropriation (FY 2005)	\$60,224,000
Health Services Account—State Appropriation	\$34,289,000
General Fund—Federal Appropriation	\$348,897,000
General Fund—Private/Local Appropriation	\$93,601,000
Hospital Commission Account—State Appropriation	\$2,490,000
Health Professions Account—State Appropriation	\$40,097,000
Emergency Medical Services and Trauma Care Systems Trust Account—State Appropriation	\$12,558,000
Safe Drinking Water Account—State Appropriation	\$2,728,000
Drinking Water Assistance Account—Federal Appropriation	\$13,498,000
Waterworks Operator Certification—State Appropriation	\$633,000
Water Quality Account—State Appropriation	\$3,359,000
Accident Account—State Appropriation	\$258,000
Medical Aid Account—State Appropriation	\$46,000
State Toxics Control Account—State Appropriation	\$2,761,000
Medical Test Site Licensure Account—State Appropriation	\$1,718,000
Youth Tobacco Prevention Account—State Appropriation	\$1,806,000
Tobacco Prevention and Control Account—State Appropriation	\$52,510,000
TOTAL APPROPRIATION	\$729,616,000

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

(1) The department or any successor agency is authorized to raise existing fees charged for health care assistants, commercial shellfish paralytic shellfish poisoning, commercial shellfish licenses, and newborn screening programs, in excess of the fiscal growth factor established by Initiative Measure No. 601, if necessary, to meet the actual costs of conducting business and the appropriation levels in this section.

(2) \$1,337,000 of the general fund—state fiscal year 2004 appropriation and \$1,338,000 of the general fund—state fiscal year 2005 appropriation are provided solely for the implementation of the Puget Sound water work plan and agency action items, DOH-01, DOH-02, DOH-03, and DOH-04.

(3) The department of health shall not initiate any services that will require expenditure of state general fund moneys unless expressly authorized in this act or other law. The department may seek, receive, and spend, under RCW 43.79.260 through 43.79.282, federal moneys not anticipated in this act as long as the federal funding does not require expenditure of state moneys for the program in excess of amounts anticipated in this act. If the department receives unanticipated unrestricted federal moneys, those moneys shall be spent for services authorized in this act or in any other legislation that provides

appropriation authority, and an equal amount of appropriated state moneys shall lapse. Upon the lapsing of any moneys under this subsection, the office of financial management shall notify the legislative fiscal committees. As used in this subsection, "unrestricted federal moneys" includes block grants and other funds that federal law does not require to be spent on specifically defined projects or matched on a formula basis by state funds.

(4) \$21,650,000 of the health services account—state appropriation is provided solely for the state’s program of universal access to essential childhood vaccines. The department shall utilize all available federal funding before expenditure of these funds.

(5) \$2,984,000 of the general fund—local appropriation is provided solely for development and implementation of an internet-based system for preparing and retrieving death certificates as provided in Substitute Senate Bill No. 5545 (chapter 241, Laws of 2003, web-based vital records).

(6) The department of social and health services, the office of the superintendent of public instruction, and the department of health should jointly identify opportunities for early intervention and prevention activities that can help prevent disease and reduce oral health issues among children. Disease prevention among infants at the age of one year and among children entering the K-12 education system provides cost-effective ways to avoid higher health care spending later in life.

(7) \$92,000 of the general fund—state appropriation for fiscal year 2004, \$19,000 of the general fund—state appropriation for fiscal year 2005, and \$987,000 of the general fund—local appropriation are provided solely for implementation of Substitute House Bill No. 1338 (municipal water rights). If Substitute House Bill No. 1338 is not enacted by June 30, 2003, the amounts provided in this subsection shall lapse.

NEW SECTION. Sec. 222. FOR THE DEPARTMENT OF CORRECTIONS

(1) ADMINISTRATION AND SUPPORT SERVICES

General Fund—State Appropriation (FY 2004)	\$38,317,000
General Fund—State Appropriation (FY 2005)	\$35,473,000
Public Safety and Education Account—State	
Appropriation	\$3,657,000
Violence Reduction and Drug Enforcement	
Account Appropriation	\$26,000
TOTAL APPROPRIATION	\$77,473,000

The appropriations in this subsection are subject to the following conditions and limitations: \$3,250,000 of the general fund—state appropriation for fiscal year 2004 is provided solely for the continuation of phase two of the department’s offender-based tracking system replacement project. This amount is conditioned on the department satisfying the requirements of section 902 of this act.

(2) CORRECTIONAL OPERATIONS

General Fund—State Appropriation (FY 2004)	\$441,122,000
General Fund—State Appropriation (FY 2005)	\$449,520,000
General Fund—Federal Appropriation	\$8,746,000
Violence Reduction and Drug Enforcement Account—	

State Appropriation	\$3,008,000
TOTAL APPROPRIATION	\$902,396,000

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

(a) The department may expend funds generated by contractual agreements entered into for mitigation of severe overcrowding in local jails. Any funds generated in excess of actual costs shall be deposited in the state general fund. Expenditures shall not exceed revenue generated by such agreements and shall be treated as recovery of costs.

(b) The department shall provide funding for the pet partnership program at the Washington corrections center for women at a level at least equal to that provided in the 1995-97 biennium.

(c) The department of corrections shall accomplish personnel reductions with the least possible impact on correctional custody staff, community custody staff, and correctional industries. For the purposes of this subsection, correctional custody staff means employees responsible for the direct supervision of offenders.

(d) During the 2003-05 biennium, when contracts are established or renewed for offender pay phone and other telephone services provided to inmates, the department shall select the contractor or contractors primarily based on the following factors: (i) The lowest rate charged to both the inmate and the person paying for the telephone call; and (ii) the lowest commission rates paid to the department, while providing reasonable compensation to cover the costs of the department to provide the telephone services to inmates and provide sufficient revenues for the activities funded from the institutional welfare betterment account.

(e) For the acquisition of properties and facilities, the department of corrections is authorized to enter into financial contracts, paid for from operating resources, for the purposes indicated and in not more than the principal amounts indicated, plus financing expenses and required reserves pursuant to chapter 39.94 RCW. This authority applies to the following: Lease-develop with the option to purchase or lease-purchase approximately 50 work release beds in facilities throughout the state for \$3,500,000.

(3) COMMUNITY SUPERVISION

General Fund—State Appropriation (FY 2004)	\$73,952,000
General Fund—State Appropriation (FY 2005)	\$74,200,000
Public Safety and Education	
Account—State Appropriation	\$15,492,000
TOTAL APPROPRIATION	\$163,644,000

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

(a) The department of corrections shall accomplish personnel reductions with the least possible impact on correctional custody staff, community custody staff, and correctional industries. For the purposes of this subsection, correctional custody staff means employees responsible for the direct supervision of offenders.

(b) \$75,000 of the general fund—state appropriation for fiscal year 2004 and \$75,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the department of corrections to contract with the institute for public policy for responsibilities assigned in chapter 196, Laws of 1999 (offender accountability act) and sections 7 through 12 of chapter 197, Laws of 1999 (drug offender sentencing).

(c) \$100,000 of the general fund—state appropriation for fiscal year 2004 is provided solely for a pilot project to test the availability, reliability, and effectiveness of an electronic monitoring system based on passive data logging global positioning system technology for monitoring sex offenders.

(i) The department of corrections shall work with the Washington association of sheriffs and police chiefs and the department of social and health services to establish the pilot project.

(ii) The pilot project shall be of sufficient size to test the reliability of the technology in a variety of geographical circumstances including both urban and rural locations.

(iii) The pilot project shall test the system using sex or kidnapping offenders under the jurisdiction of the department of corrections and persons civilly committed under chapter 71.09 RCW under a variety of supervision circumstances. Offenders included in the pilot project shall be offenders who have been classified as level three offenders by the end of sentence review committee and over whom the department of corrections has authority to establish conditions of supervision or persons who have been ordered to be electronically monitored by the court in a proceeding under chapter 71.09 RCW and who have been classified as level three offenders by the end of sentence review committee.

(iv) The pilot project shall specifically examine the feasibility of electronic monitoring for level three sex offenders or kidnapping offenders who register as homeless or transient.

(v) The Washington association of sheriffs and police chiefs shall report to the appropriate committees of the legislature and the governor on the results of the pilot project by January 31, 2004. The report must include, but is not limited to:

(A) The availability of the technology, including a description of the system used and a discussion of the various types of global positioning system-based monitoring available and appropriate for a sex offender population;

(B) Any geographic or weather-related limitations posed by the technology;

(C) The reliability, including the false alarm rate of the technology;

(D) Any training requirements for department of corrections staff or supervised persons;

(E) Any distinctions in effectiveness or feasibility for different supervision populations;

(F) Costs, including equipment costs, monitoring fees, and any changes to department of corrections staffing levels;

(G) The ability of the subjects of the pilot to pay for daily and/or equipment costs;

(H) The rate of loss or damage to equipment used by the subjects of the pilot project; and

(I) Limitations in the pilot project to determining the answers to the items in this subsection (3)(c)(v).

The association shall make a recommendation in the report about the frequency and timing of monitoring reports, and the need for further study of the issue to determine efficacy and reliability.

(4) CORRECTIONAL INDUSTRIES

General Fund—State Appropriation (FY 2004)	\$626,000
General Fund—State Appropriation (FY 2005)	\$626,000
TOTAL APPROPRIATION	\$1,252,000

The appropriations in this subsection are subject to the following conditions and limitations: \$110,000 of the general fund—state appropriation for fiscal year 2004 and \$110,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for transfer to the jail industries board. The board shall use the amounts provided only for administrative expenses, equipment purchases, and technical assistance associated with advising cities and counties in developing, promoting, and implementing consistent, safe, and efficient offender work programs.

(5) INTERAGENCY PAYMENTS

General Fund—State Appropriation (FY 2004)	\$25,099,000
General Fund—State Appropriation (FY 2005)	\$25,134,000
TOTAL APPROPRIATION	\$50,233,000

Sec. 223. 2003 c 10 s 218 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF CORRECTIONS. The appropriations to the department of corrections in this act shall be expended for the programs and in the amounts specified herein. However, after May 1, 2003, after approval by the director of financial management and unless specifically prohibited by this act, the department may transfer general fund—state appropriations for fiscal year 2003 between programs. The director of financial management shall notify the appropriate fiscal committees of the senate and house of representatives in writing prior to approving any deviations from appropriation levels.

(1) ADMINISTRATION AND SUPPORT SERVICES

General Fund—State Appropriation (FY 2002)	\$36,786,000
General Fund—State Appropriation (FY 2003)	(\$36,239,000)
	<u>\$32,989,000</u>
Public Safety and Education Account—State Appropriation	\$1,576,000
Violence Reduction and Drug Enforcement Account Appropriation	\$3,254,000
TOTAL APPROPRIATION	(\$77,855,000)
	<u>\$74,605,000</u>

The appropriations in this subsection are subject to the following conditions and limitations: \$4,623,000 of the general fund—state appropriation for fiscal year 2002, ~~(\$4,623,000)~~ \$1,373,000 of the general fund—state appropriation for fiscal year 2003, and \$3,254,000 of the violence reduction and drug enforcement account appropriation are provided solely for the replacement of the department's offender-based tracking system. This amount is conditioned on

the department satisfying the requirements of section 902 of this act. The department shall prepare an assessment of the fiscal impact of any changes to the replacement project. The assessment shall:

- (a) Include a description of any changes to the replacement project;
- (b) Provide the estimated costs for each component in the 2001-03 and subsequent biennia;
- (c) Include a schedule that provides the time estimated to complete changes to each component of the replacement project; and
- (d) Be provided to the office of financial management, the department of information services, the information services board, and the staff of the fiscal committees of the senate and the house of representatives no later than November 1, 2002.

(2) CORRECTIONAL OPERATIONS

General Fund—State Appropriation (FY 2002)	\$404,390,000
General Fund—State Appropriation (FY 2003)	\$433,915,000
General Fund—Federal Appropriation	\$9,936,000
Violence Reduction and Drug Enforcement Account—	
State Appropriation	\$1,596,000
Public Health Services Account Appropriation	\$1,453,000
TOTAL APPROPRIATION	\$851,290,000

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

- (a) The department may expend funds generated by contractual agreements entered into for mitigation of severe overcrowding in local jails. Any funds generated in excess of actual costs shall be deposited in the state general fund. Expenditures shall not exceed revenue generated by such agreements and shall be treated as recovery of costs.
- (b) The department shall provide funding for the pet partnership program at the Washington corrections center for women at a level at least equal to that provided in the 1995-97 biennium.
- (c) The department of corrections shall accomplish personnel reductions with the least possible impact on correctional custody staff, community custody staff, and correctional industries. For the purposes of this subsection, correctional custody staff means employees responsible for the direct supervision of offenders.
- (d) \$553,000 of the general fund—state appropriation for fiscal year 2002 and \$956,000 of the general fund—state appropriation for fiscal year 2003 are provided solely to increase payment rates for contracted education providers, contracted chemical dependency providers, and contracted work release facilities.
- (e) During the 2001-03 biennium, when contracts are established or renewed for offender pay phone and other telephone services provided to inmates, the department shall select the contractor or contractors primarily based on the following factors: (i) The lowest rate charged to both the inmate and the person paying for the telephone call; and (ii) the lowest commission rates paid to the department, while providing reasonable compensation to cover the costs of the department to provide the telephone services to inmates and provide

sufficient revenues for the activities funded from the institutional welfare betterment account.

(f) For the acquisition of properties and facilities, the department of corrections is authorized to enter into financial contracts, paid for from operating resources, for the purposes indicated and in not more than the principal amounts indicated, plus financing expenses and required reserves pursuant to chapter 39.94 RCW. This authority applies to the following: Lease-develop with the option to purchase or lease-purchase approximately 50 work release beds in facilities throughout the state for \$3,500,000.

(g) \$22,000 of the general fund—state appropriation for fiscal year 2002 and \$76,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for the implementation of Second Substitute Senate Bill No. 6151 (high risk sex offenders in the civil commitment and criminal justice systems). If the bill is not enacted by June 30, 2001, the amounts provided in this subsection shall lapse.

(h) The department may acquire a ferry for no more than \$1,000,000 from Washington state ferries. Funds expended for this purpose will be recovered from the sale of marine assets.

(i) Within the amounts appropriated in this section, funding is provided for the initial implementation of a medical algorithm practice program within the department's facilities. The program shall be designed to achieve clinical efficacy and costs efficiency in the utilization of psychiatric drugs.

(3) COMMUNITY SUPERVISION

General Fund—State Appropriation (FY 2002)	\$68,097,000
General Fund—State Appropriation (FY 2003)	\$77,436,000
General Fund—Federal Appropriation	\$870,000
Public Safety and Education	
Account—State Appropriation	\$15,493,000
TOTAL APPROPRIATION	\$161,896,000

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

(a) The department of corrections shall accomplish personnel reductions with the least possible impact on correctional custody staff, community custody staff, and correctional industries. For the purposes of this subsection, correctional custody staff means employees responsible for the direct supervision of offenders.

(b) \$75,000 of the general fund—state appropriation for fiscal year 2002 and \$75,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for the department of corrections to contract with the institute for public policy for responsibilities assigned in chapter 196, Laws of 1999 (offender accountability act) and sections 7 through 12 of chapter 197, Laws of 1999 (drug offender sentencing).

(c) \$16,000 of the general fund—state appropriation for fiscal year 2002 and \$28,000 of the general fund—state appropriation for fiscal year 2003 are provided solely to increase payment rates for contracted chemical dependency providers.

(d) \$30,000 of the general fund—state appropriation for fiscal year 2002 and \$30,000 of the general fund—state appropriation for fiscal year 2003 are

provided solely for the implementation of Substitute Senate Bill No. 5118 (interstate compact for adult offender supervision). If the bill is not enacted by June 30, 2001, the amounts provided in this subsection shall lapse.

(4) CORRECTIONAL INDUSTRIES

General Fund—State Appropriation (FY 2002)	\$631,000
General Fund—State Appropriation (FY 2003)	\$629,000
TOTAL APPROPRIATION	\$1,260,000

The appropriations in this subsection are subject to the following conditions and limitations: \$110,000 of the general fund—state appropriation for fiscal year 2002 and \$110,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for transfer to the jail industries board. The board shall use the amounts provided only for administrative expenses, equipment purchases, and technical assistance associated with advising cities and counties in developing, promoting, and implementing consistent, safe, and efficient offender work programs.

(5) INTERAGENCY PAYMENTS

General Fund—State Appropriation (FY 2002)	\$18,568,000
General Fund—State Appropriation (FY 2003)	\$18,569,000
TOTAL APPROPRIATION	\$37,137,000

NEW SECTION. Sec. 224. FOR THE DEPARTMENT OF SERVICES FOR THE BLIND

General Fund—State Appropriation (FY 2004)	\$1,767,000
General Fund—State Appropriation (FY 2005)	\$1,767,000
General Fund—Federal Appropriation	\$14,297,000
General Fund—Private/Local Appropriation	\$80,000
TOTAL APPROPRIATION	\$17,911,000

NEW SECTION. Sec. 225. FOR THE SENTENCING GUIDELINES COMMISSION

General Fund—State Appropriation (FY 2004)	\$737,000
General Fund—State Appropriation (FY 2005)	\$741,000
TOTAL APPROPRIATION	\$1,478,000

NEW SECTION. Sec. 226. FOR THE EMPLOYMENT SECURITY DEPARTMENT

General Fund—Federal Appropriation	\$267,586,000
General Fund—Private/Local Appropriation	\$30,103,000
Unemployment Compensation Administration Account—	
Federal Appropriation	\$184,878,000
Administrative Contingency Account—State	
Appropriation	\$14,721,000
Employment Service Administrative Account—State	
Appropriation	\$23,184,000
TOTAL APPROPRIATION	\$520,472,000

The appropriations in this subsection are subject to the following conditions and limitations: \$100,000 of the administrative contingency account appropriation is provided solely to establish an advisory partnership on the Washington manufacturing sector as outlined in Substitute House Bill No. 2164

(manufacturing advisory partnership) and recommended in the report entitled manufacturing in Washington state, 1990-2002: trends and implications for the industry and state.

Sec.227. 2003 c 10 s 209 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—
MEDICAL ASSISTANCE PROGRAM**

General Fund—State Appropriation (FY 2002)	\$1,081,150,000
General Fund—State Appropriation (FY 2003)	(\$1,202,277,000)
	<u>\$1,192,164,000</u>
General Fund—Federal Appropriation	(\$3,319,133,000)
	<u>\$3,329,246,000</u>
General Fund—Private/Local Appropriation	\$216,735,000
Emergency Medical Services and Trauma Care Systems	
Trust Account—State Appropriation	\$10,700,000
Health Services Account—State Appropriation	\$720,236,000
TOTAL APPROPRIATION	\$6,550,231,000

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

(1) The department shall increase its efforts to restrain the growth of health care costs. The appropriations in this section anticipate that the department implements a combination of cost containment and utilization strategies sufficient to reduce general fund—state costs by approximately 3 percent below the level projected for the 2001-03 biennium in the March 2001 forecast. The department shall report to the fiscal committees of the legislature by October 1, 2001, on its specific plans and semiannual targets for accomplishing these savings. The department shall report again to the fiscal committees by March 1, 2002, and by September 1, 2002, on actual performance relative to the semiannual targets. If satisfactory progress is not being made to achieve the targeted savings, the reports shall include recommendations for additional or alternative measures to control costs.

(2) The department shall continue to extend medicaid eligibility to children through age 18 residing in households with incomes below 200 percent of the federal poverty level.

(3) In determining financial eligibility for medicaid-funded services, the department is authorized to disregard recoveries by Holocaust survivors of insurance proceeds or other assets, as defined in RCW 48.104.030.

(4) \$502,000 of the health services account appropriation, \$400,000 of the general fund—private/local appropriation, and \$1,676,000 of the general fund—federal appropriation are provided solely for implementation of Second Substitute House Bill No. 1058 (breast and cervical cancer treatment). If the bill is not enacted by June 30, 2001, or if private funding is not contributed equivalent to the general fund—private/local appropriation, the funds appropriated in this subsection shall lapse.

(5) \$620,000 of the health services account appropriation for fiscal year 2002, \$337,000 of the health services account appropriation for fiscal year 2003, and \$960,000 of the general fund—federal appropriation are provided solely for implementation of a "ticket to work" medicaid buy-in program for working persons with disabilities, operated in accordance with the following conditions:

(a) To be eligible, a working person with a disability must have total income which is less than 450 percent of poverty;

(b) Participants shall participate in the cost of the program by paying (i) a monthly enrollment fee equal to fifty percent of any unearned income in excess of the medicaid medically needy standard; and (ii) a monthly premium equal to 5 percent of all unearned income, plus 5 percent of all earned income after disregarding the first sixty-five dollars of monthly earnings, and half the remainder;

(c) The department shall establish more restrictive eligibility standards than specified in this subsection to the extent necessary to operate the program within appropriated funds;

(d) The department may require point-of-service copayments as appropriate, except that copayments shall not be so high as to discourage appropriate service utilization, particularly of prescription drugs needed for the treatment of psychiatric conditions; and

(e) The department shall establish systems for tracking and reporting enrollment and expenditures in this program, and the prior medical assistance eligibility status of new program enrollees. The department shall additionally survey the prior and current employment status and approximate hours worked of program enrollees, and report the results to the fiscal and health care committees of the legislature by January 15, 2003.

(6) From funds appropriated in this section, the department shall design, implement, and evaluate pilot projects to assist individuals with at least three different diseases to improve their health, while reducing total medical expenditures. The projects shall involve (a) identifying persons who are seriously or chronically ill due to a combination of medical, social, and functional problems; and (b) working with the individuals and their care providers to improve adherence to state-of-the-art treatment regimens. The department shall report to the health care and the fiscal committees of the legislature by January 1, 2002, on the particular disease states, intervention protocols, and delivery mechanisms it proposes to test.

(7) Sufficient funds are appropriated in this section for the department to continue full-scope dental coverage, vision coverage, and podiatry services for medicaid-eligible adults.

(8) The legislature reaffirms that it is in the state's interest for Harborview medical center to remain an economically viable component of the state's health care system.

(9) \$80,000 of the general fund—state appropriation for fiscal year 2002, \$80,000 of the general fund—state appropriation for fiscal year 2003, and \$160,000 of the general fund—federal appropriation are provided solely for the newborn referral program to provide access and outreach to reduce infant mortality.

(10) \$30,000 of the general fund—state appropriation for fiscal year 2002, \$31,000 of the general fund—state appropriation for fiscal year 2003, and \$62,000 of the general fund—federal appropriation are provided solely for implementation of Substitute Senate Bill No. 6020 (dental sealants). If Substitute Senate Bill No. 6020 is not enacted by June 30, 2001, the amounts provided in this subsection shall lapse.

(11) In accordance with RCW 74.46.625, \$199,111,000 of the health services account appropriation and \$201,049,000 of the general fund—federal appropriation are provided solely for supplemental payments to nursing homes operated by rural public hospital districts. The payments shall be conditioned upon (a) a contractual commitment by the association of public hospital districts and participating rural public hospital districts to make an intergovernmental transfer to the state treasurer, for deposit into the health services account, equal to at least 95 percent of the supplemental payments; and (b) a contractual commitment by the participating districts to not allow expenditures covered by the supplemental payments to be used for medicaid nursing home rate-setting. The participating districts shall retain no more than a total of \$20,000,000 for the 2001-03 biennium. If the medicare upper payment limit revenues referenced in this subsection are not received in an amount or within a time frame sufficient to support spending from the health services account, the governor shall take actions in accordance with RCW 43.88.110(8).

(12) \$40,428,000 of the health services account appropriation and \$40,807,000 of the general fund—federal appropriation are provided solely for additional disproportionate share and medicare upper payment limit payments to public hospital districts.

The payments shall be conditioned upon a contractual commitment by the participating public hospital districts to make an intergovernmental transfer to the health services account equal to at least 91 percent of the additional payments. At least 28 percent of the amounts retained by the participating hospital districts shall be allocated to the state's teaching hospitals.

(13) \$412,000 of the general fund—state appropriation for fiscal year 2002, \$862,000 of the general fund—state appropriation for fiscal year 2003, and \$730,000 of the general fund—federal appropriation are provided solely for implementation of Substitute House Bill No. 1162 (small rural hospitals). If Substitute House Bill No. 1162 is not enacted by June 30, 2001, the amounts provided in this subsection shall lapse.

(14) The department may continue to use any federal money available to continue to provide medicaid matching funds for funds contributed by local governments for purposes of conducting eligibility outreach to children and underserved groups. The department shall ensure cooperation with the anticipated audit of the school districts' matchable expenditures for this program and advise the appropriate legislative fiscal committees of the findings.

(15) The department shall coordinate with the health care authority and with community and migrant health clinics to actively assist children and immigrant adults not eligible for medicaid to enroll in the basic health plan.

(16) \$8,500,000 of the general fund—state appropriation for fiscal year 2002, or so much thereof as may be necessary, is provided solely for settlement of *Providence St. Peter's Hospital et al. vs. Department of Social and Health Services*.

(17) In consultation and coordination with the department of health, the department shall establish mechanisms to assure that the AIDS insurance program operates within budgeted levels. Such mechanisms shall include a system under which the state's contribution to the cost of coverage is adjusted on a sliding-scale basis.

(18) The department shall implement an academic detailing program that educates prescribers on the availability of generic versions of off-patent brand drugs. To the extent the net cost of generics, after accounting for rebates, is less than the off-patent drug, generics will be substituted, with the prescriber's approval, consistent with criteria developed by the department in consultation with the state medical association and the state pharmacists association.

(19) Within available resources, the department shall design and report on the feasibility of a general assistance medical care management project in two counties, one in eastern Washington and one in western Washington. In designing the project, the department shall consult with the mental health division, migrant and community health centers, and any other managed care provider that has the capacity to offer coordinated medical and mental health care. The projects shall be designed in such a way that a designated provider network is established for general assistance clients so that care management can be maximized. The department shall report on the design of the pilot project to the policy and fiscal committees of the legislature by October 15, 2002.

(20) \$21,000 of the general fund—state appropriation and \$189,000 of the general fund—federal appropriation are provided solely for initiation of a study to assess alternatives for replacing the existing medicaid management information system. The department shall report to the information services board and to the fiscal committees of the legislature by December 1, 2003, on the anticipated costs and benefits of the major alternative approaches. The department shall receive specific authorization in the 2003-05 appropriations act before proceeding with procurement of the replacement system.

**PART III
NATURAL RESOURCES**

NEW SECTION. Sec. 301. FOR THE COLUMBIA RIVER GORGE COMMISSION

General Fund—State Appropriation (FY 2004)	\$339,000
General Fund—State Appropriation (FY 2005)	\$345,000
General Fund—Private/Local Appropriation	\$663,000
TOTAL APPROPRIATION	\$1,347,000

NEW SECTION. Sec. 302. FOR THE DEPARTMENT OF ECOLOGY

General Fund—State Appropriation (FY 2004)	\$33,464,000
General Fund—State Appropriation (FY 2005)	\$33,263,000
General Fund—Federal Appropriation	\$57,143,000
General Fund—Private/Local Appropriation	\$3,696,000
Special Grass Seed Burning Research Account—	
State Appropriation	\$14,000
Reclamation Revolving Account—State	
Appropriation	\$2,760,000
Flood Control Assistance Account—	
State Appropriation	\$2,019,000
State Emergency Water Projects Revolving Account—	
State Appropriation	\$552,000
Waste Reduction/Recycling/Litter Control Account—	
State Appropriation	\$13,714,000

State Drought Preparedness Account—State Appropriation	\$1,708,000
State and Local Improvements Revolving Account (Water Supply Facilities)—State Appropriation	\$593,000
Site Closure Account—State Appropriation	\$629,000
Water Quality Account—State Appropriation	\$25,252,000
Wood Stove Education and Enforcement Account— State Appropriation	\$356,000
Worker and Community Right-to-Know Account— State Appropriation	\$3,348,000
State Toxics Control Account—State Appropriation	\$59,268,000
State Toxics Control Account—Private/Local Appropriation	\$353,000
Local Toxics Control Account—State Appropriation	\$4,878,000
Water Quality Permit Account—State Appropriation	\$25,205,000
Underground Storage Tank Account—State Appropriation	\$2,710,000
Environmental Excellence Account—State Appropriation	\$504,000
Biosolids Permit Account—State Appropriation	\$784,000
Hazardous Waste Assistance Account—State Appropriation	\$4,185,000
Air Pollution Control Account—State Appropriation	\$1,654,000
Oil Spill Prevention Account—State Appropriation	\$7,745,000
Air Operating Permit Account—State Appropriation	\$3,693,000
Freshwater Aquatic Weeds Account—State Appropriation	\$2,503,000
Oil Spill Response Account—State Appropriation	\$7,078,000
Metals Mining Account—State Appropriation	\$19,000
Water Pollution Control Revolving Account— State Appropriation	\$380,000
Water Pollution Control Revolving Account— Federal Appropriation	\$1,867,000
TOTAL APPROPRIATION	\$301,337,000

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

(1) \$2,757,696 of the general fund—state appropriation for fiscal year 2004, \$2,757,696 of the general fund—state appropriation for fiscal year 2005, \$394,000 of the general fund—federal appropriation, \$2,581,000 of the state toxics account—state appropriation, \$217,830 of the water quality account—

state appropriation, \$322,976 of the state drought preparedness account—state appropriation, \$3,748,220 of the water quality permit account—state appropriation, and \$704,942 of the oil spill prevention account are provided solely for the implementation of the Puget Sound work plan and agency action items DOE-01, DOE-02, DOE-04, DOE-05, DOE-06, DOE-07, DOE-08, and DOE-09.

(2) \$4,059,000 of the state toxics control account appropriation is provided solely for methamphetamine lab clean-up activities.

(3) \$170,000 of the oil spill prevention account appropriation is provided solely for implementation of the Puget Sound work plan action item UW-02 through a contract with the University of Washington's sea grant program to develop an educational program targeted to small spills from commercial fishing vessels, ferries, cruise ships, ports, and marinas.

(4) \$1,000,000 of the general fund—state appropriation for fiscal year 2004 and \$1,000,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for shoreline grants to local governments to implement Substitute Senate Bill No. 6012 (shoreline management), chapter 262, Laws of 2003.

(5) Fees approved by the department of ecology in the 2003-05 biennium are authorized to exceed the fiscal growth factor under RCW 43.135.055.

(6) \$200,000 of the water quality account—state appropriation is provided solely for the department to contract with Washington State University cooperative extension program to provide statewide coordination and support for coordinated resource management.

(7) \$100,000 of the state toxics control account—state appropriation is provided solely to implement Engrossed Substitute House Bill No. 1002 (mercury), chapter 260, Laws of 2003. If the bill is not enacted by June 30, 2003, the amount provided in this subsection shall lapse.

(8) The department of ecology is authorized to take one of the following actions related to the grant awarded in the 2001-03 biennium to Lincoln county for the Negro Creek flood control project, flood control assistance account program grant G0200049: (a) Carry forward to the 2003-05 biennium any unspent portion of the grant, or (b) extend the time of performance for the grant contract to the end of the 2003-2005 biennium.

NEW SECTION. Sec. 303. FOR THE STATE PARKS AND RECREATION COMMISSION

General Fund—State Appropriation (FY 2004)	\$29,986,000
General Fund—State Appropriation (FY 2005)	\$29,976,000
General Fund—Federal Appropriation	\$2,666,000
General Fund—Private/Local Appropriation	\$63,000
Winter Recreation Program Account—State Appropriation	\$1,079,000
Off Road Vehicle Account—State Appropriation	\$285,000
Snowmobile Account—State Appropriation	\$4,790,000
Aquatic Lands Enhancement Account—State Appropriation	\$332,000
Public Safety and Education Account—State Appropriation	\$47,000
Parks Renewal and Stewardship Account—	

State Appropriation	\$33,769,000
TOTAL APPROPRIATION	\$102,993,000

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

(1) Fees approved by the state parks and recreation commission in the 2003-05 biennium are authorized to exceed the fiscal growth factor under RCW 43.135.055.

(2) \$79,000 of the general fund—state appropriation for fiscal year 2004, \$79,000 of the general fund—state appropriation for fiscal year 2005, and \$8,000 of the winter recreation program account—state appropriation are provided solely for a grant for the operation of the Northwest avalanche center.

(3) \$191,000 of the aquatic lands enhancement account appropriation is provided solely for the implementation of the Puget Sound work plan and agency action item P+RC-02.

(4) At each state park at which a parking fee is collected, the state parks and recreation commission shall provide notice that the revenue collected from the parking fee shall be used to fund expenditures to maintain and improve the state park system.

NEW SECTION. Sec. 304. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

General Fund—State Appropriation (FY 2004)	\$1,246,000
General Fund—State Appropriation (FY 2005)	\$1,256,000
General Fund—Federal Appropriation	\$17,983,000
Firearms Range Account—State Appropriation	\$22,000
Recreation Resources Account—State Appropriation	\$2,608,000
NOVA Program Account—State Appropriation	\$691,000
Water Quality Account—State Appropriation	\$200,000
Aquatic Lands Enhancement Account—State Appropriation	\$254,000
TOTAL APPROPRIATION	\$24,260,000

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

(1) \$16,000,000 of the general fund—federal appropriation is provided solely for implementation of the forest and fish agreement rules. These funds will be passed through to the department of natural resources and the department of fish and wildlife.

(2) \$41,000 of the general fund—state appropriation for fiscal year 2004 and \$41,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the operation and maintenance of the natural resources data portal.

(3) \$812,000 of the general fund—state appropriation for fiscal year 2004, \$813,000 of the general fund—state appropriation for fiscal year 2005, and \$1,625,000 of the general fund—federal appropriation are provided to the salmon recovery funding board for distribution to lead entities. The board may establish policies to require coordination of funding requests from lead entities and regional recovery boards to ensure that recovery efforts are synchronized. At the discretion of the board, funding shall be concentrated in watersheds within the highest priority salmon recovery regions as defined by the statewide

strategy to recover salmon. The board shall also coordinate funding decisions with the northwest power planning council to ensure maximum efficiency and investment return.

(4) \$234,000 of the general fund—state appropriation for fiscal year 2004 and \$234,000 of the general fund—state appropriation for fiscal year 2005 are provided solely to implement priority recommendations developed by the monitoring oversight committee as directed by RCW 77.85.210. Within these funds, activity shall be directed to improve monitoring oversight within watersheds, enhance data coordination and access among recovery partners, and produce a state watershed health report card.

NEW SECTION. Sec. 305. FOR THE ENVIRONMENTAL HEARINGS OFFICE

General Fund—State Appropriation (FY 2004)	\$923,000
General Fund—State Appropriation (FY 2005)	\$960,000
TOTAL APPROPRIATION	\$1,883,000

The appropriations in this section are subject to the following conditions and limitations: \$30,000 of the general fund—state appropriation for fiscal year 2004 and \$20,000 of the general fund—state appropriation for fiscal year 2005 are provided solely to implement Engrossed Substitute Senate Bill No. 5776 (review of permit decisions), chapter 393, Laws of 2003.

NEW SECTION. Sec. 306. FOR THE CONSERVATION COMMISSION

General Fund—State Appropriation (FY 2004)	\$2,234,000
General Fund—State Appropriation (FY 2005)	\$2,245,000
Water Quality Account—State Appropriation	\$2,162,000
TOTAL APPROPRIATION	\$6,641,000

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

(1) \$247,000 of the general fund—state appropriation for fiscal year 2004 and \$247,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the implementation of the Puget Sound work plan and agency action item CC-01.

(2) \$118,000 of the general fund—state appropriation for fiscal year 2004 and \$121,000 of the general fund—state appropriation for fiscal year 2005 are provided solely to implement Engrossed Second Substitute House Bill No. 1418 (drainage infrastructure), chapter 391, Laws of 2003.

NEW SECTION. Sec. 307. FOR THE DEPARTMENT OF FISH AND WILDLIFE

General Fund—State Appropriation (FY 2004)	\$41,453,000
General Fund—State Appropriation (FY 2005)	\$40,179,000
General Fund—Federal Appropriation	\$31,632,000
General Fund—Private/Local Appropriation	\$24,300,000
Off Road Vehicle Account—State Appropriation	\$501,000
Aquatic Lands Enhancement Account—State Appropriation	\$5,620,000
Public Safety and Education Account—State	

Appropriation.....	\$562,000
Recreational Fisheries Enhancement Account—	
State Appropriation	\$3,392,000
Warm Water Game Fish Account—State	
Appropriation.....	\$2,568,000
Eastern Washington Pheasant Enhancement Account—	
State Appropriation	\$750,000
Wildlife Account—State Appropriation	\$57,138,000
Wildlife Account—Federal Appropriation.....	\$38,216,000
Wildlife Account—Private/Local	
Appropriation.....	\$15,158,000
Game Special Wildlife Account—State	
Appropriation.....	\$1,949,000
Game Special Wildlife Account—Federal	
Appropriation.....	\$9,598,000
Game Special Wildlife Account—Private/Local	
Appropriation.....	\$350,000
Environmental Excellence Account—State	
Appropriation.....	\$15,000
Regional Fisheries Salmonid Recovery Account—	
Federal Appropriation	\$1,750,000
Oil Spill Prevention Account—State	
Appropriation.....	\$981,000
Oyster Reserve Land Account—State	
Appropriation.....	\$137,000
TOTAL APPROPRIATION.....	\$276,249,000

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

(1) \$1,355,714 of the general fund—state appropriation for fiscal year 2004, \$1,355,713 of the general fund—state appropriation for fiscal year 2005, and \$402,000 of the wildlife account—state appropriation are provided solely for the implementation of the Puget Sound work plan and agency action items DFW-01 through DFW-06.

(2) \$225,000 of the general fund—state appropriation for fiscal year 2004, \$225,000 of the general fund—state appropriation for fiscal year 2005, and \$550,000 of the wildlife account—state appropriation are provided solely for the implementation of hatchery reform recommendations defined by the hatchery scientific review group.

(3) \$850,000 of the wildlife account—state appropriation is provided solely for stewardship and maintenance needs on agency-owned lands and water access sites.

(4) \$900,000 of the wildlife fund—state appropriation is provided solely for wetland restoration activities for migratory waterfowl by providing landowner incentives to create or maintain waterfowl habitat and management activities.

(5) \$2,000,000 of the aquatic lands enhancement account appropriation is provided for cooperative volunteer projects.

(6) The department shall support the activities of the aquatic nuisance species coordination committee to foster state, federal, tribal, and private

cooperation on aquatic nuisance species issues. The committee shall strive to prevent the introduction of nonnative aquatic species and to minimize the spread of species that are introduced.

(7) The department shall develop and implement an activity-based costing system. The system shall be operational no later than January 1, 2004.

(8) \$400,000 of the wildlife account—state appropriation is provided solely to implement the department's information systems strategic plan to include continued implementation of a personal computer leasing plan, an upgrade of computer back-up systems, systems architecture assessment, and network security analysis.

(9) Within funds provided, the department shall make available enforcement and biological staff to respond and take appropriate action to ensure public safety in response to public complaints regarding bear and cougar.

(10) \$43,000 of the general fund—state appropriation for fiscal year 2004 and \$42,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for staffing and operation of the Tennant Lake interpretive center.

(11) \$80,000 of the general fund—state appropriation for fiscal year 2004 and \$77,000 of the general fund—state appropriation for fiscal year 2005 are provided solely to implement Second Substitute House Bill No. 1095 (small forest landowners), chapter 311, Laws of 2003.

(12) \$25,000 of the general fund—state appropriation for fiscal year 2004 and \$25,000 of the general fund—state appropriation for fiscal year 2005 are provided solely to implement Engrossed Second Substitute House Bill No. 1338 (municipal water rights). If the bill is not enacted by June 30, 2003, the amounts provided in this subsection shall lapse.

(13) \$110,000 of the general fund—state appropriation for fiscal year 2004 and \$110,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the economic adjustment assistance to fishermen pursuant to the 1999 Pacific salmon treaty agreement.

(14) The department shall emphasize enforcement of laws related to protection of fish habitat and the illegal harvest of salmon and steelhead. Within the amount provided for the agency, the department shall provide support to the department of health to enforce state shellfish harvest laws.

***NEW SECTION. Sec. 308. FOR THE DEPARTMENT OF NATURAL RESOURCES**

General Fund—State Appropriation (FY 2004)	\$30,307,000
General Fund—State Appropriation (FY 2005)	\$34,233,000
General Fund—Federal Appropriation	\$3,809,000
General Fund—Private/Local Appropriation	\$2,482,000
Forest Development Account—State Appropriation	\$52,060,000
Off Road Vehicle Account—State Appropriation	\$4,028,000
Surveys and Maps Account—State Appropriation	\$2,760,000
Aquatic Lands Enhancement Account—State Appropriation	\$6,884,000
Resources Management Cost Account—State	

Appropriation	\$70,391,000
Surface Mining Reclamation Account—State	
Appropriation	\$2,293,000
Disaster Response Account—State Appropriation	\$7,200,000
Water Quality Account—State Appropriation	\$2,479,000
Aquatic Land Dredged Material Disposal Site	
Account—State Appropriation	\$1,311,000
Natural Resource Conservation Areas Stewardship	
Account Appropriation	\$83,000
Air Pollution Control Account—State	
Appropriation	\$526,000
Agricultural College Trust Management Account	
Appropriation	\$1,868,000
Derelict Vessel Removal Account—State	
Appropriation	\$1,130,000
TOTAL APPROPRIATION	\$223,844,000

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

(1) \$18,000 of the general fund—state appropriation for fiscal year 2004, \$18,000 of the general fund—state appropriation for fiscal year 2005, and \$1,006,950 of the aquatic lands enhancement account appropriation are provided solely for the implementation of the Puget Sound work plan and agency action items DNR-01, DNR-02, and DNR-04.

(2) \$908,000 of the general fund—state appropriation for fiscal year 2004 and \$910,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for deposit into the agricultural college trust management account and are provided solely to manage approximately 70,700 acres of Washington State University's agricultural college trust lands.

(3) \$1,158,000 of the general fund—state appropriation for fiscal year 2004, \$8,358,000 of the general fund—state appropriation for fiscal year 2005, and \$7,200,000 of the disaster response account—state appropriation are provided solely for emergency fire suppression.

(4) \$582,000 of the aquatic lands enhancement account appropriation is provided solely for spartina control.

(5) Fees approved by the board of natural resources in the 2003-05 biennium are authorized to exceed the fiscal growth factor under RCW 43.135.055.

(6) The department shall prepare a report of actual and planned expenditures by task and activity from all fund sources for all aspects of the forest and fish program for the 2001-03 and 2003-05 biennia. The report shall be submitted to the director of financial management and the legislative fiscal committees by August 31, 2003.

(7) Authority to expend funding for acquisition of technology equipment and software associated with development of a new revenue management system is conditioned on compliance with section 902 of this act.

(8) \$1,000,000 of the aquatic lands enhancement account—state appropriation is provided solely for the department to meet its obligations with

the U.S. environmental protection agency for the clean-up of Commencement Bay.

(9) For the 2003-05 fiscal biennium, the department has revised the methodology by which administrative costs of the department are allocated among the state general fund and the various dedicated funds and accounts from which the department receives appropriations. The legislature recognizes that the revised methodology represents a fair and equitable allocation of costs under state law and accounting rules. The legislature further finds that retroactive application of the revised methodology is neither practical nor desirable.

(10) The department of natural resources shall provide a report to the appropriate committees of the legislature, the office of financial management, and the board of natural resources concerning the costs and effectiveness of the contract harvesting program as authorized by Second Substitute Senate Bill No. 5074 (contract harvesting), chapter 313, Laws of 2003. The report shall be submitted by December 31, 2006, and shall include the following information:

(a) Number of sales conducted through contract harvesting;

(b) For each sale conducted, the (i) number of board feet sold; (ii) stumpage and pond prices; (iii) difference in revenues received compared to revenues that would have accrued through noncontract harvest sales, and the distribution of revenues to the contract harvesting revolving account, and to applicable management and trust accounts; and (iv) total cost to conduct the contract harvest, by fund and object of expenditure; and

(c) Other costs and benefits attributable to contract harvesting.

(11) \$208,000 of the general fund—state appropriation of fiscal year 2004 and \$70,000 of the general fund—state appropriation for fiscal year 2005 are provided solely to implement Second Substitute House Bill No. 1095 (small forest landowners), chapter 311, Laws of 2003.

(12) The department of natural resources shall not close Sahara Creek facility, campground, or trailhead. The appropriations in this section are deemed sufficient to provide service for these recreational opportunities.

(13) \$4,000 of the general fund—state appropriation for fiscal year 2004 and \$4,000 of the general fund—state appropriation for fiscal year 2005 are provided solely to compensate the forest board trust for a portion of the lease to the Crescent television improvement district consistent with RCW 79.12.055.

(14) \$2,700,000 of the general fund—state appropriation for fiscal year 2004 is provided solely to the department of natural resources to acquire approximately 232 acres of land and timber in Klickitat county from the SDS lumber company. Expenditure of the moneys provided in this subsection shall not be made until the SDS lumber company accepts the land and timber acquisition as full and complete settlement of the current litigation brought by the SDS lumber company against the state and the litigation is dismissed, with prejudice. The land and timber acquired with the funding in this subsection shall be managed for the benefit of the common schools. By June 30, 2004, if the department has not recovered through trust asset management the state's capital investment from the land acquisition provided in this subsection, the department shall seek reimbursement from the federal government. *It is the intent of the legislature that the state general fund appropriation for the 2005-07 fiscal biennium for the forest practices program in the department be reduced by the*

amount not recovered through trust land management or reimbursement by the federal government.

(15) \$265,000 of the aquatic lands enhancement account appropriation is provided solely for developing a pilot project to study the feasibility of geoduck aquaculture on both intertidal and subtidal lands in the state of Washington.

*Sec. 308 was partially vetoed. See message at end of chapter.

NEW SECTION. Sec. 309. FOR THE DEPARTMENT OF AGRICULTURE

General Fund—State Appropriation (FY 2004)	\$7,444,000
General Fund—State Appropriation (FY 2005)	\$7,244,000
General Fund—Federal Appropriation	\$10,068,000
General fund—Private/Local Appropriation	\$1,110,000
Aquatic Lands Enhancement Account—State	
Appropriation	\$1,942,000
Water Quality Account—State Appropriation	\$692,000
State Toxics Control Account—State	
Appropriation	\$2,580,000
Water Quality Permit Account—State Appropriation	\$165,000
TOTAL APPROPRIATION	\$31,245,000

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

(1) \$37,000 of the general fund—state appropriation for fiscal year 2004 and \$37,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for implementation of the Puget Sound work plan and agency action item WSDA-01.

(2) Fees and assessments approved by the department in the 2003-05 biennium are authorized to exceed the fiscal growth factor under RCW 43.135.055.

(3) \$165,000 of the water quality permit account—state appropriation and \$692,000 of the water quality account—state appropriation are provided solely to implement Engrossed Substitute Senate Bill No. 5889 (animal feeding operations), chapter 325, Laws of 2003.

(4) \$53,000 of the general fund—state appropriation for fiscal year 2004 and \$15,000 of the general fund—state appropriation for fiscal year 2005 are provided solely to implement Engrossed Substitute House Bill No. 1754 (chickens), chapter 397, Laws of 2003.

NEW SECTION. Sec. 310. FOR THE WASHINGTON POLLUTION LIABILITY REINSURANCE PROGRAM

Pollution Liability Insurance Program Trust Account—	
State Appropriation	\$984,000

**PART IV
TRANSPORTATION**

NEW SECTION. Sec. 401. FOR THE DEPARTMENT OF LICENSING

General Fund—State Appropriation (FY 2004)	\$4,986,000
General Fund—State Appropriation (FY 2005)	\$4,988,000

Architects' License Account—State	
Appropriation	\$696,000
Cemetery Account—State Appropriation	\$235,000
Professional Engineers' Account—State	
Appropriation	\$3,025,000
Real Estate Commission Account—State Appropriation	\$7,111,000
Master License Account—State Appropriation	\$9,110,000
Uniform Commercial Code Account—State	
Appropriation	\$2,987,000
Real Estate Education Account—State	
Appropriation	\$277,000
Real Estate Appraisers Commission Account—State	
Appropriation	\$927,000
Geologist's Account—State	
Appropriation	\$7,000
Funeral Directors and Embalmers Account—State	
Appropriation	\$521,000
Washington Real Estate Research Account—State	
Appropriation	\$308,000
Data Processing Revolving Account—State	
Appropriation	\$29,000
TOTAL APPROPRIATION	\$35,207,000

The appropriations in this section are subject to the following conditions and limitations: In accordance with RCW 43.24.086, it is the policy of the state of Washington that the cost of each professional, occupational, or business licensing program be fully borne by the members of that profession, occupation, or business. For each licensing program covered by RCW 43.24.086, the department shall set fees at levels sufficient to fully cover the cost of administering the licensing program, including any costs associated with policy enhancements funded in the 2003-05 fiscal biennium. Pursuant to RCW 43.135.055, during the 2003-05 fiscal biennium, the department may increase fees in excess of the fiscal growth factor if the increases are necessary to fully fund the costs of the licensing programs.

NEW SECTION. Sec. 402. FOR THE STATE PATROL

General Fund—State Appropriation (FY 2004)	\$20,005,000
General Fund—State Appropriation (FY 2005)	\$18,855,000
General Fund—Federal Appropriation	\$4,240,000
General Fund—Private/Local Appropriation	\$378,000
Death Investigations Account—State	
Appropriation	\$4,489,000
Public Safety and Education Account—State	
Appropriation	\$20,852,000
Enhanced 911 Account—State Appropriation	\$612,000
County Criminal Justice Assistance Account—State	
Appropriation	\$2,649,000
Municipal Criminal Justice Assistance Account—	
State Appropriation	\$1,087,000
Fire Service Trust Account—State	

Appropriation.....	\$125,000
Fire Service Training Account—State	
Appropriation.....	\$7,374,000
State Toxics Control Account—State	
Appropriation.....	\$436,000
Violence Reduction and Drug Enforcement Account—	
State Appropriation.....	\$286,000
Fingerprint Identification Account—State	
Appropriation.....	\$4,405,000
TOTAL APPROPRIATION.....	\$85,793,000

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

(1) \$750,000 of the fire service training account—state appropriation is provided solely for the implementation of Senate Bill No. 5176 (fire fighting training). If the bill is not enacted by June 30, 2003, the amount provided in this subsection shall lapse.

(2) \$200,000 of the fire service training account—state appropriation is provided solely for two FTE's in the office of state fire marshal to exclusively review K-12 construction documents for fire and life safety in accordance with the state building code. It is the intent of this appropriation to provide these services only to those districts that are located in counties without qualified review capabilities.

**PART V
EDUCATION**

***NEW SECTION. Sec. 501. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION**

(1) STATE AGENCY OPERATIONS

General Fund—State Appropriation (FY 2004).....	\$11,772,000
General Fund—State Appropriation (FY 2005).....	\$11,761,000
General Fund—Federal Appropriation.....	\$15,921,000
TOTAL APPROPRIATION.....	\$39,454,000

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

(a) \$10,771,000 of the general fund—state appropriation for fiscal year 2004 and \$10,768,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the operation and expenses of the office of the superintendent of public instruction.

(b) \$428,000 of the general fund—state appropriation for fiscal year 2004 and \$428,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the operation and expenses of the state board of education, including basic education assistance activities.

(c) \$416,000 of the general fund—state appropriation for fiscal year 2004 and \$416,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the operation and expenses of the Washington professional educator standards board.

(d) \$157,000 of the general fund—state appropriation for fiscal year 2004 and \$149,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the implementation of Substitute Senate Bill No. 5012 (charter schools). If the bill is not enacted by June 30, 2003, the amounts provided in this subsection shall lapse.

(e) The department of social and health services, the office of the superintendent of public instruction, and the department of health should work together to identify opportunities for early intervention and prevention activities that can help prevent disease and reduce oral health issues among children. Disease prevention among infants at the age of one year and among children entering the K-12 education system provide cost-effective ways to avoid higher health spending later in life.

(2) STATEWIDE PROGRAMS

General Fund—State Appropriation (FY 2004).....	\$8,966,000
General Fund—State Appropriation (FY 2005).....	\$9,345,000
General Fund—Federal Appropriation.....	\$66,405,000
TOTAL APPROPRIATION.....	\$84,716,000

The appropriations in this subsection are provided solely for the statewide programs specified in this subsection and are subject to the following conditions and limitations:

(a) HEALTH AND SAFETY

(i) A maximum of \$2,541,000 of the general fund—state appropriation for fiscal year 2004 and a maximum of \$2,541,000 of the general fund—state appropriation for fiscal year 2005 are provided for a corps of nurses located at educational service districts, as determined by the superintendent of public instruction, to be dispatched to the most needy schools to provide direct care to students, health education, and training for school staff.

(ii) A maximum of \$96,000 of the general fund—state appropriation for fiscal year 2004 and a maximum of \$96,000 of the general fund—state appropriation for fiscal year 2005 are provided for the school safety center in the office of the superintendent of public instruction subject to the following conditions and limitations:

(A) The safety center shall: Disseminate successful models of school safety plans and cooperative efforts; provide assistance to schools to establish a comprehensive safe school plan; select models of cooperative efforts that have been proven successful; act as an information dissemination and resource center when an incident occurs in a school district either in Washington or in another state; coordinate activities relating to school safety; review and approve manuals and curricula used for school safety models and training; and develop and maintain a school safety information web site.

(B) The superintendent of public instruction shall participate in a school safety center advisory committee that includes representatives of educators, classified staff, principals, superintendents, administrators, the American society for industrial security, the state criminal justice training commission, and others deemed appropriate and approved by the school safety center advisory committee. Members of the committee shall be chosen by the groups they represent. In addition, the Washington association of sheriffs and police chiefs

shall appoint representatives of law enforcement to participate on the school safety center advisory committee. The advisory committee shall select a chair.

(C) The school safety center advisory committee shall develop a training program, using the best practices in school safety, for all school safety personnel.

(iii) A maximum of \$100,000 of the general fund—state appropriation for fiscal year 2004 and a maximum of \$100,000 of the general fund—state appropriation for fiscal year 2005 are provided for a school safety training program provided by the criminal justice training commission subject to the following conditions and limitations:

(A) The criminal justice training commission with assistance of the school safety center advisory committee established in section 2(b)(iii) of this section shall develop manuals and curricula for a training program for all school safety personnel.

(B) The Washington state criminal justice training commission, in collaboration with the advisory committee, shall provide the school safety training for all school administrators and school safety personnel, including school safety personnel hired after the effective date of this section.

(iv) \$400,000 of the general fund—federal appropriation transferred from the department of health is provided for a program that provides grants to school districts for media campaigns promoting sexual abstinence and addressing the importance of delaying sexual activity, pregnancy, and childbearing until individuals are ready to nurture and support their children. Grants to the school districts shall be for projects that are substantially designed and produced by students. The grants shall require a local private sector match equal to one-half of the state grant, which may include in-kind contribution of technical or other assistance from consultants or firms involved in public relations, advertising, broadcasting, and graphics or video production or other related fields.

(v) \$13,663,000 of the general fund—federal appropriation is provided for safe and drug free schools and communities grants for drug and violence prevention activities and strategies.

(vi) A maximum of \$146,000 of the general fund—state appropriation for fiscal year 2004 and a maximum of \$146,000 of the general fund—state appropriation for fiscal year 2005 are provided for a nonviolence and leadership training program provided by the institute for community leadership. The program shall provide the following:

(A) Statewide nonviolence leadership coaches training program for certification of educational employees and community members in nonviolence leadership workshops;

(B) Statewide leadership nonviolence student exchanges, training, and speaking opportunities for student workshop participants; and

(C) A request for proposal process, with up to 80 percent funding, for nonviolence leadership workshops serving at least 12 school districts with direct programming in 36 elementary, middle, and high schools throughout Washington state.

(b) TECHNOLOGY

A maximum of \$1,939,000 of the general fund—state appropriation for fiscal year 2004 and a maximum of \$1,939,000 of the general fund—state appropriation for fiscal year 2005 are provided for K-20 telecommunications

network technical support in the K-12 sector to prevent system failures and avoid interruptions in school utilization of the data processing and video-conferencing capabilities of the network. These funds may be used to purchase engineering and advanced technical support for the network.

(c) GRANTS AND ALLOCATIONS

(i) \$306,000 of the fiscal year 2004 appropriation and \$689,000 of the fiscal year 2005 appropriation are provided solely for the special services pilot projects provided by Second Substitute House Bill No. 2012 (special services pilot program). The office of the superintendent of public instruction shall allocate these funds to the district or districts participating in the pilot program according to the provisions of section 2 subsection (4) of Second Substitute House Bill No. 2012, chapter 33, Laws of 2003.

(ii) A maximum of \$761,000 of the general fund—state appropriation for fiscal year 2004 and a maximum of \$757,000 of the general fund—state appropriation for fiscal year 2005 are provided for alternative certification routes. Funds may be used by the professional educator standards board to continue existing alternative-route grant programs and to create new alternative-route programs in regions of the state with service shortages.

(iii) A maximum of \$31,000 of the general fund—state appropriation for fiscal year 2004 and a maximum of \$31,000 of the general fund—state appropriation for fiscal year 2005 are provided for operation of the Cispus environmental learning center.

(iv) A maximum of \$1,224,000 of the general fund—state appropriation for fiscal year 2004 and a maximum of \$1,224,000 of the general fund—state appropriation for fiscal year 2005 are provided for in-service training and educational programs conducted by the Pacific Science Center.

(v) A maximum of \$1,079,000 of the general fund—state appropriation for fiscal year 2004 and a maximum of \$1,079,000 of the general fund—state appropriation for fiscal year 2005 are provided for the Washington state leadership assistance for science education reform (LASER) regional partnership coordinated at the Pacific Science Center.

(vi) A maximum of \$97,000 of the general fund—state appropriation for fiscal year 2004 and a maximum of \$97,000 of the general fund—state appropriation for fiscal year 2005 are provided to support vocational student leadership organizations.

(vii) A maximum of \$146,000 of the general fund—state appropriation for fiscal year 2004 and a maximum of \$146,000 of the general fund—state appropriation for fiscal year 2005 are provided for the Washington civil liberties education program.

(viii) \$500,000 of the general fund—state appropriation for fiscal year 2004 and \$500,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the Washington state achievers scholarship program. The funds shall be used to support community involvement officers that recruit, train, and match community volunteer mentors with students selected as achievers scholars.

(ix) \$1,433,000 of the general fund—federal appropriation is provided for the advanced placement fee program to increase opportunities for low-income students and under-represented populations to participate in advanced placement

courses and to increase the capacity of schools to provide advanced placement courses to students.

(x) \$9,510,000 of the general fund—federal appropriation is provided for comprehensive school reform demonstration projects to provide grants to low-income schools for improving student achievement through adoption and implementation of research-based curricula and instructional programs.

(xi) \$12,977,000 of the general fund—federal appropriation is provided for 21st century learning center grants, providing after-school and inter-session activities for students.

*Sec. 501 was partially vetoed. See message at end of chapter.

NEW SECTION. Sec. 502. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR GENERAL APPORTIONMENT

General Fund—State Appropriation (FY 2004)	\$3,969,407,000
General Fund—State Appropriation (FY 2005)	\$3,977,209,000
TOTAL APPROPRIATION	\$7,946,616,000

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

(1) Each general fund fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(2) Allocations for certificated staff salaries for the 2003-04 and 2004-05 school years shall be determined using formula-generated staff units calculated pursuant to this subsection. Staff allocations for small school enrollments in (d) through (f) of this subsection shall be reduced for vocational full-time equivalent enrollments. Staff allocations for small school enrollments in grades K-6 shall be the greater of that generated under (a) of this subsection, or under (d) and (e) of this subsection. Certificated staffing allocations shall be as follows:

(a) On the basis of each 1,000 average annual full-time equivalent enrollments, excluding full-time equivalent enrollment otherwise recognized for certificated staff unit allocations under (c) through (f) of this subsection:

(i) Four certificated administrative staff units per thousand full-time equivalent students in grades K-12;

(ii) 49 certificated instructional staff units per thousand full-time equivalent students in grades K-3;

(iii) Forty-six certificated instructional staff units per thousand full-time equivalent students in grades 4-12; and

(iv) An additional 4.2 certificated instructional staff units for grades K-3 and an additional 7.2 certificated instructional staff units for grade 4. Any funds allocated for the additional certificated units provided in this subsection (iv) shall not be considered as basic education funding;

(v) For class size reduction and expanded learning opportunities under the better schools program, an additional 0.8 certificated instructional staff units for the 2003-04 school year for grades K-4 per thousand full-time equivalent students. Funds allocated for these additional certificated units shall not be considered as basic education funding. The allocation may be used for reducing class sizes in grades K-4 or to provide additional classroom contact hours for kindergarten, before-and-after-school programs, weekend school programs, summer school programs, and intercession opportunities to assist elementary

school students in meeting the essential academic learning requirements and student assessment performance standards. For purposes of this subsection, additional classroom contact hours provided by teachers beyond the normal school day under a supplemental contract shall be converted to a certificated full-time equivalent by dividing the classroom contact hours by 900.

(A) Funds provided under this subsection (2)(a)(iv) and (v) in excess of the amount required to maintain the statutory minimum ratio established under RCW 28A.150.260(2)(b) shall be allocated only if the district documents an actual ratio in grades K-4 equal to or greater than 54.0 certificated instructional staff per thousand full-time equivalent students in the 2003-04 school year and 53.2 certificated instructional staff per thousand full-time equivalent students in the 2004-05 school year. For any school district documenting a lower certificated instructional staff ratio, the allocation shall be based on the district's actual grades K-4 certificated instructional staff ratio achieved in that school year, or the statutory minimum ratio established under RCW 28A.150.260(2)(b), if greater;

(B) Districts at or above 51.0 certificated instructional staff per one thousand full-time equivalent students in grades K-4 may dedicate up to 1.3 of the 54.0 funding ratio in the 2003-04 school year, and up to 1.3 of the 53.2 funding ratio in the 2004-05 school year, to employ additional classified instructional assistants assigned to basic education classrooms in grades K-4. For purposes of documenting a district's staff ratio under this section, funds used by the district to employ additional classified instructional assistants shall be converted to a certificated staff equivalent and added to the district's actual certificated instructional staff ratio. Additional classified instructional assistants, for the purposes of this subsection, shall be determined using the 1989-90 school year as the base year;

(C) Any district maintaining a ratio in grades K-4 equal to or greater than 54.0 certificated instructional staff per thousand full-time equivalent students in the 2003-04 school year and 53.2 certificated instructional staff per thousand full-time equivalent students in the 2004-05 school year may use allocations generated under this subsection (2)(a)(iv) and (v) in excess of that required to maintain the minimum ratio established under RCW 28A.150.260(2)(b) to employ additional basic education certificated instructional staff or classified instructional assistants in grades 5-6. Funds allocated under this subsection (2)(a)(iv) and (v) shall only be expended to reduce class size in grades K-6. No more than 1.3 of the certificated instructional funding ratio amount may be expended for provision of classified instructional assistants;

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

(c)(i) On the basis of full-time equivalent enrollment in:

(A) Vocational education programs approved by the superintendent of public instruction, a maximum of 0.92 certificated instructional staff units and

0.08 certificated administrative staff units for each 19.5 full-time equivalent vocational students; and

(B) Skills center programs meeting the standards for skills center funding established in January 1999 by the superintendent of public instruction, 0.92 certificated instructional staff units and 0.08 certificated administrative units for each 16.67 full-time equivalent vocational students;

(ii) Vocational full-time equivalent enrollment shall be reported on the same monthly basis as the enrollment for students eligible for basic support, and payments shall be adjusted for reported vocational enrollments on the same monthly basis as those adjustments for enrollment for students eligible for basic support; and

(iii) Indirect cost charges by a school district to vocational-secondary programs shall not exceed 15 percent of the combined basic education and vocational enhancement allocations of state funds;

(d) For districts enrolling not more than twenty-five average annual full-time equivalent students in grades K-8, and for small school plants within any school district which have been judged to be remote and necessary by the state board of education and enroll not more than twenty-five average annual full-time equivalent students in grades K-8:

(i) For those enrolling no students in grades 7 and 8, 1.76 certificated instructional staff units and 0.24 certificated administrative staff units for enrollment of not more than five students, plus one-twentieth of a certificated instructional staff unit for each additional student enrolled; and

(ii) For those enrolling students in grades 7 or 8, 1.68 certificated instructional staff units and 0.32 certificated administrative staff units for enrollment of not more than five students, plus one-tenth of a certificated instructional staff unit for each additional student enrolled;

(e) For specified enrollments in districts enrolling more than twenty-five but not more than one hundred average annual full-time equivalent students in grades K-8, and for small school plants within any school district which enroll more than twenty-five average annual full-time equivalent students in grades K-8 and have been judged to be remote and necessary by the state board of education:

(i) For enrollment of up to sixty annual average full-time equivalent students in grades K-6, 2.76 certificated instructional staff units and 0.24 certificated administrative staff units; and

(ii) For enrollment of up to twenty annual average full-time equivalent students in grades 7 and 8, 0.92 certificated instructional staff units and 0.08 certificated administrative staff units;

(f) For districts operating no more than two high schools with enrollments of less than three hundred average annual full-time equivalent students, for enrollment in grades 9-12 in each such school, other than alternative schools:

(i) For remote and necessary schools enrolling students in any grades 9-12 but no more than twenty-five average annual full-time equivalent students in grades K-12, four and one-half certificated instructional staff units and one-quarter of a certificated administrative staff unit;

(ii) For all other small high schools under this subsection, nine certificated instructional staff units and one-half of a certificated administrative staff unit for the first sixty average annual full time equivalent students, and additional staff

units based on a ratio of 0.8732 certificated instructional staff units and 0.1268 certificated administrative staff units per each additional forty-three and one-half average annual full time equivalent students.

Units calculated under (f)(ii) of this subsection shall be reduced by certificated staff units at the rate of forty-six certificated instructional staff units and four certificated administrative staff units per thousand vocational full-time equivalent students;

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

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

(3) Allocations for classified salaries for the 2003-04 and 2004-05 school years shall be calculated using formula-generated classified staff units determined as follows:

(a) For enrollments generating certificated staff unit allocations under subsection (2)(d) through (h) of this section, one classified staff unit for each three certificated staff units allocated under such subsections;

(b) For all other enrollment in grades K-12, including vocational full-time equivalent enrollments, one classified staff unit for each sixty average annual full-time equivalent students; and

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

(4) Fringe benefit allocations shall be calculated at a rate of 9.68 percent in the 2003-04 school year and 9.68 percent in the 2004-05 school year for certificated salary allocations provided under subsection (2) of this section, and a rate of 12.25 percent in the 2003-04 school year and 12.25 percent in the 2004-05 school year for classified salary allocations provided under subsection (3) of this section.

(5) Insurance benefit allocations shall be calculated at the maintenance rate specified in section 504(2) of this act, based on the number of benefit units determined as follows:

(a) The number of certificated staff units determined in subsection (2) of this section; and

(b) The number of classified staff units determined in subsection (3) of this section multiplied by 1.152. This factor is intended to adjust allocations so that, for the purposes of distributing insurance benefits, full-time equivalent classified employees may be calculated on the basis of 1440 hours of work per year, with no individual employee counted as more than one full-time equivalent.

(6)(a) For nonemployee-related costs associated with each certificated staff unit allocated under subsection (2)(a), (b), and (d) through (h) of this section, there shall be provided a maximum of \$8,785 per certificated staff unit in the 2003-04 school year and a maximum of \$8,952 per certificated staff unit in the 2004-05 school year.

(b) For nonemployee-related costs associated with each vocational certificated staff unit allocated under subsection (2)(c)(i)(A) of this section, there shall be provided a maximum of \$21,573 per certificated staff unit in the 2003-04 school year and a maximum of \$21,983 per certificated staff unit in the 2004-05 school year.

(c) For nonemployee-related costs associated with each vocational certificated staff unit allocated under subsection (2)(c)(i)(B) of this section, there shall be provided a maximum of \$16,739 per certificated staff unit in the 2003-04 school year and a maximum of \$17,057 per certificated staff unit in the 2004-05 school year.

(7) Allocations for substitute costs for classroom teachers shall be distributed at a maintenance rate of \$531.09 for the 2003-04 and 2004-05 school years per allocated classroom teachers exclusive of salary increase amounts provided in section 504 of this act. Solely for the purposes of this subsection, allocated classroom teachers shall be equal to the number of certificated instructional staff units allocated under subsection (2) of this section, multiplied by the ratio between the number of actual basic education certificated teachers and the number of actual basic education certificated instructional staff reported statewide for the prior school year.

(8) Any school district board of directors may petition the superintendent of public instruction by submission of a resolution adopted in a public meeting to reduce or delay any portion of its basic education allocation for any school year. The superintendent of public instruction shall approve such reduction or delay if it does not impair the district's financial condition. Any delay shall not be for more than two school years. Any reduction or delay shall have no impact on levy authority pursuant to RCW 84.52.0531 and local effort assistance pursuant to chapter 28A.500 RCW.

(9) The superintendent may distribute a maximum of \$6,392,000 outside the basic education formula during fiscal years 2004 and 2005 as follows:

(a) For fire protection for school districts located in a fire protection district as now or hereafter established pursuant to chapter 52.04 RCW, a maximum of \$495,000 may be expended in fiscal year 2004 and a maximum of \$504,000 may be expended in fiscal year 2005;

(b) For summer vocational programs at skills centers, a maximum of \$2,035,000 may be expended for the 2004 fiscal year and a maximum of \$2,035,000 for the 2005 fiscal year;

(c) A maximum of \$353,000 may be expended for school district emergencies; and

(d) A maximum of \$485,000 each fiscal year may be expended for programs providing skills training for secondary students who are enrolled in extended day school-to-work programs, as approved by the superintendent of public instruction. The funds shall be allocated at a rate not to exceed \$500 per full-time equivalent student enrolled in those programs.

(10) For purposes of RCW 84.52.0531, the increase per full-time equivalent student is 3.4 percent from the 2002-03 school year to the 2003-04 school year and 2.5 percent from the 2003-04 school year to the 2004-05 school year.

(11) If two or more school districts consolidate and each district was receiving additional basic education formula staff units pursuant to subsection (2)(b) through (h) of this section, the following shall apply:

(a) For three school years following consolidation, the number of basic education formula staff units shall not be less than the number of basic education formula staff units received by the districts in the school year prior to the consolidation; and

(b) For the fourth through eighth school years following consolidation, the difference between the basic education formula staff units received by the districts for the school year prior to consolidation and the basic education formula staff units after consolidation pursuant to subsection (2)(a) through (h) of this section shall be reduced in increments of twenty percent per year.

(12) \$159,000 of the general fund—state appropriation for fiscal year 2004 and \$1,181,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the implementation of Substitute Senate Bill No. 5012 (charter schools). If the bill is not enacted by June 30, 2003, the amounts provided in this subsection shall lapse.

NEW SECTION. Sec. 503. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—BASIC EDUCATION EMPLOYEE COMPENSATION. (1) The following calculations determine the salaries used in the general fund allocations for certificated instructional, certificated administrative, and classified staff units under section 502 of this act:

(a) Salary allocations for certificated instructional staff units shall be determined for each district by multiplying the district's certificated instructional total base salary shown on LEAP Document 12E by the district's average staff mix factor for certificated instructional staff in that school year, computed using LEAP Document 1Sa for the 2003-04 school year and LEAP Document 1Sb for the 2004-05 school year; and

(b) Salary allocations for certificated administrative staff units and classified staff units for each district shall be based on the district's certificated administrative and classified salary allocation amounts shown on LEAP Document 12E.

(2) For the purposes of this section:

(a) "LEAP Document 1Sa" means the computerized tabulation establishing staff mix factors for certificated instructional staff for the 2003-04 school year according to education and years of experience, as developed by the legislative evaluation and accountability program committee on March 31, 2003, at 09:06 hours;

(b) "LEAP Document 1Sb" means the computerized tabulation establishing staff mix factors for certificated instructional staff for the 2004-05 school year according to education and years of experience, as developed by the legislative evaluation and accountability program committee on March 31, 2003, at 09:06 hours; and

(c) "LEAP Document 12E" means the computerized tabulation of 2003-04 and 2004-05 school year salary allocations for certificated administrative staff and classified staff and derived and total base salaries for certificated instructional staff as developed by the legislative evaluation and accountability program committee on March 31, 2003, at 09:06 hours.

(3) Incremental fringe benefit factors shall be applied to salary adjustments at a rate of 9.04 percent for school year 2003-04 and 9.04 percent for school year 2004-05 for certificated staff and for classified staff 8.75 percent for school year 2003-04 and 8.75 percent for the 2004-05 school year.

Ch. 25**WASHINGTON LAWS, 2003 1st Sp. Sess.**

(4)(a) Pursuant to RCW 28A.150.410, the following state-wide salary allocation schedules for certificated instructional staff are established for basic education salary allocations:

K-12 Salary Allocation Schedule For Certificated Instructional Staff
2003-04 School Year

Years of Service	BA	BA+15	BA+30	BA+45	BA+90	BA+135	MA	MA+45	MA+90 or PHD
0	29,149	29,936	30,752	31,568	34,192	35,881	34,947	37,570	39,262
1	29,540	30,339	31,165	32,019	34,669	36,350	35,335	37,985	39,665
2	30,060	30,870	31,709	32,633	35,289	36,995	35,901	38,556	40,262
3	30,747	31,574	32,429	33,392	36,069	37,833	36,630	39,306	41,071
4	31,285	32,151	33,017	34,018	36,724	38,510	37,208	39,914	41,701
5	31,840	32,716	33,594	34,655	37,365	39,196	37,798	40,509	42,340
6	32,251	33,108	34,016	35,131	37,827	39,667	38,213	40,910	42,750
7	33,139	34,012	34,937	36,118	38,868	40,769	39,185	41,934	43,836
8	34,202	35,122	36,069	37,348	40,135	42,106	40,414	43,202	45,172
9		36,272	37,266	38,591	41,443	43,481	41,656	44,510	46,548
10			38,477	39,898	42,788	44,894	42,964	45,855	47,960
11				41,243	44,196	46,344	44,309	47,263	49,410
12				42,545	45,642	47,854	45,707	48,708	50,921
13					47,123	49,401	47,154	50,189	52,467
14					48,611	51,006	48,644	51,775	54,073
15					49,876	52,333	49,908	53,121	55,479
16 or More					50,873	53,379	50,906	54,183	56,588

K-12 Salary Allocation Schedule For Certificated Instructional Staff
2004-05 School Year

Years of Service	BA	BA+15	BA+30	BA+45	BA+90	BA+135	MA	MA+45	MA+90 or PHD
0	30,023	30,834	31,674	32,516	35,218	36,958	35,995	38,697	40,439
1	30,427	31,249	32,100	32,979	35,709	37,440	36,395	39,125	40,855
2	30,812	31,642	32,502	33,449	36,171	37,920	36,798	39,520	41,269
3	31,209	32,047	32,916	33,893	36,610	38,401	37,180	39,895	41,687
4	31,598	32,473	33,347	34,358	37,091	38,895	37,580	40,313	42,118
5	32,000	32,879	33,762	34,829	37,552	39,392	37,987	40,711	42,551
6	32,413	33,273	34,186	35,306	38,016	39,866	38,404	41,114	42,963
7	33,139	34,012	34,937	36,118	38,868	40,769	39,185	41,934	43,836
8	34,202	35,122	36,069	37,348	40,135	42,106	40,414	43,202	45,172
9		36,272	37,266	38,591	41,443	43,481	41,656	44,510	46,548
10			38,477	39,898	42,788	44,894	42,964	45,855	47,960
11				41,243	44,196	46,344	44,309	47,263	49,410
12				42,545	45,642	47,854	45,707	48,708	50,921
13					47,123	49,401	47,154	50,189	52,467
14					48,611	51,006	48,644	51,775	54,073
15					49,876	52,333	49,908	53,121	55,479
16 or More					50,873	53,379	50,906	54,183	56,588

(b) As used in this subsection, the column headings "BA+(N)" refer to the number of credits earned since receiving the baccalaureate degree.

(c) For credits earned after the baccalaureate degree but before the masters degree, any credits in excess of forty-five credits may be counted after the masters degree. Thus, as used in this subsection, the column headings "MA+(N)" refer to the total of:

(i) Credits earned since receiving the masters degree; and

(ii) Any credits in excess of forty-five credits that were earned after the baccalaureate degree but before the masters degree.

(5) For the purposes of this section:

(a) "BA" means a baccalaureate degree.

(b) "MA" means a masters degree.

(c) "PHD" means a doctorate degree.

(d) "Years of service" shall be calculated under the same rules adopted by the superintendent of public instruction.

(e) "Credits" means college quarter hour credits and equivalent in-service credits computed in accordance with RCW 28A.415.020 and 28A.415.023.

(6) No more than ninety college quarter-hour credits received by any employee after the baccalaureate degree may be used to determine compensation allocations under the state salary allocation schedule and LEAP documents referenced in this act, or any replacement schedules and documents, unless:

(a) The employee has a masters degree; or

(b) The credits were used in generating state salary allocations before January 1, 1992.

(7) The certificated instructional staff base salary specified for each district in LEAP Document 12E and the salary schedules in subsection (4)(a) of this section include two learning improvement days. A school district is eligible for the learning improvement day funds only if the learning improvement days have been added to the 180-day contract year. If fewer days are added, the additional learning improvement allocation shall be adjusted accordingly. The additional days shall be for activities related to improving student learning consistent with education reform implementation, and shall not be considered part of basic education. The length of a learning improvement day shall not be less than the length of a full day under the base contract. The superintendent of public instruction shall ensure that school districts adhere to the intent and purposes of this subsection.

(8) The salary allocation schedules established in this section are for allocation purposes only except as provided in RCW 28A.400.200(2), subsection (7) of this section, and section 504(1) of this act.

NEW SECTION. Sec. 504. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR SCHOOL EMPLOYEE COMPENSATION ADJUSTMENTS

General Fund—State Appropriation (FY 2004).....	\$28,511,000
General Fund—State Appropriation (FY 2005).....	\$116,670,000
General Fund—Federal Appropriation.....	\$559,000
TOTAL APPROPRIATION.....	\$145,740,000

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

(1) \$8,913,000 of the general fund—state appropriation for fiscal year 2004 and \$20,238,000 of the general fund—state appropriation for fiscal year 2005 are provided solely to provide a salary adjustment for state formula certificated instructional staff units in their first seven years of service. Consistent with the statewide certificated instructional staff salary allocation schedule in section 503 of this act, sufficient funding is provided to increase the salary of certificated instructional staff units in the 2003-04 school year and the 2004-05 school year by the following percentages: Three percent for certificated instructional staff in their first and second years of service; two and one-half percent for certificated instructional staff in their third year of service; one and one-half percent for certificated instructional staff in their fourth year of service; one percent for certificated instructional staff in their fifth year of service; and one-half of a percent for certificated instructional staff in their sixth and seventh years of service. These increases will take effect September 1, 2003 and September 1, 2004.

(a) In order to receive funding provided in this subsection, school districts shall certify to the office of superintendent of public instruction that they will provide the percentage increases in the amounts specified in this subsection. In cases where a school district providing the increases in the amounts specified in this subsection would cause that school district to be out of compliance with RCW 28A.400.200, they may provide salary increases in different amounts but only to the extent necessary to come into compliance with RCW 28A.400.200. Funds provided in this subsection shall be used exclusively for providing the percentage increases specified in this subsection to the certificated staff units in their first seven years of service and shall not be used to supplant any other state or local funding for compensation for these staff.

(b) The appropriations include associated incremental fringe benefit allocations at rates of 9.04 percent for school year 2003-04 and 9.04 percent for school year 2004-05 for certificated staff. Increases for general apportionment (basic education) are based on the salary allocation schedules and methodology in sections 502 and 503 of this act. Increases for special education result from increases in each district's basic education allocation per student. Increases for educational service districts and institutional education programs are determined by the superintendent of public instruction using the methodology for general apportionment salaries and benefits in sections 502 and 503 of this act.

(2) The appropriations in this section provide salary adjustments and incremental fringe benefit allocations based on formula adjustments as follows:

	School Year	
	2003-04	2004-05
Highly Capable (per formula student)	\$0.93	\$1.89
Transitional Bilingual Education (per eligible bilingual student)	\$2.45	\$4.97
Learning Assistance (per entitlement unit)	\$0.69	\$1.40

(3) \$116,483,000 is provided for adjustments to insurance benefit allocations. The maintenance rate for insurance benefit allocations is \$457.07 per month for the 2003-04 and 2004-05 school years. The appropriations in this

section provide for a rate increase to \$481.31 per month for the 2003-04 school year and \$570.74 per month for the 2004-05 school year at the following rates:

	School Year	
	2003-04	2004-05
Pupil Transportation (per weighted pupil mile)	\$0.22	\$1.03
Highly Capable (per formula student)	\$1.52	\$7.00
Transitional Bilingual Education (per eligible bilingual student)	\$3.92	\$18.40
Learning Assistance (per entitlement unit)	\$3.08	\$14.46

(4) The rates specified in this section are subject to revision each year by the legislature.

NEW SECTION. Sec. 505. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR PUPIL TRANSPORTATION

General Fund—State Appropriation (FY 2004)	\$201,638,000
General Fund—State Appropriation (FY 2005)	\$210,279,000
TOTAL APPROPRIATION	\$411,917,000

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

(1) Each general fund fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(2) A maximum of \$768,000 of this fiscal year 2004 appropriation and a maximum of \$782,000 of the fiscal year 2005 appropriation may be expended for regional transportation coordinators and related activities. The transportation coordinators shall ensure that data submitted by school districts for state transportation funding shall, to the greatest extent practical, reflect the actual transportation activity of each district.

(3) \$5,000 of the fiscal year 2004 appropriation and \$5,000 of the fiscal year 2005 appropriation are provided solely for the transportation of students enrolled in "choice" programs. Transportation shall be limited to low-income students who are transferring to "choice" programs solely for educational reasons.

(4) Allocations for transportation of students shall be based on reimbursement rates of \$39.21 per weighted mile in the 2003-04 school year and \$39.43 per weighted mile in the 2004-05 school year exclusive of salary and benefit adjustments provided in section 504 of this act. Allocations for transportation of students transported more than one radius mile shall be based on weighted miles as determined by superintendent of public instruction multiplied by the per mile reimbursement rates for the school year pursuant to the formulas adopted by the superintendent of public instruction. Allocations for transportation of students living within one radius mile shall be based on the number of enrolled students in grades kindergarten through five living within one radius mile of their assigned school multiplied by the per mile reimbursement rate for the school year multiplied by 1.29.

(5) Beginning with busses purchased on or after July 1, 2003, the office of superintendent of public instruction shall provide reimbursement funding to a

school district only after the superintendent of public instruction determines that the school bus was purchased from the list established pursuant to RCW 28A.160.195(2) or a comparable competitive bid process based on the lowest price quote based on similar bus categories to those used to establish the list pursuant to RCW 28A.160.195. The competitive specifications shall meet federal motor vehicle safety standards, minimum state specifications as established by rule by the superintendent, and supported options as determined by the superintendent in consultation with the regional transportation coordinators of the educational service districts.

NEW SECTION. Sec. 506. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR SCHOOL FOOD SERVICE PROGRAMS

General Fund—State Appropriation (FY 2004)	\$3,100,000
General Fund—State Appropriation (FY 2005)	\$3,100,000
General Fund—Federal Appropriation	\$272,069,000
TOTAL APPROPRIATION	\$278,269,000

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

- (1) \$3,000,000 of the general fund—state appropriation for fiscal year 2004 and \$3,000,000 of the general fund—state appropriation for fiscal year 2005 are provided for state matching money for federal child nutrition programs.
- (2) \$100,000 of the general fund—state appropriation for fiscal year 2004 and \$100,000 of the 2005 fiscal year appropriation are provided for summer food programs for children in low-income areas.

NEW SECTION. Sec. 507. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR SPECIAL EDUCATION PROGRAMS

General Fund—State Appropriation (FY 2004)	\$433,984,000
General Fund—State Appropriation (FY 2005)	\$427,214,000
General Fund—Federal Appropriation	\$409,637,000
TOTAL APPROPRIATION	\$1,270,835,000

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

- (1) Funding for special education programs is provided on an excess cost basis, pursuant to RCW 28A.150.390. School districts shall ensure that special education students as a class receive their full share of the general apportionment allocation accruing through sections 502 and 504 of this act. To the extent a school district cannot provide an appropriate education for special education students under chapter 28A.155 RCW through the general apportionment allocation, it shall provide services through the special education excess cost allocation funded in this section.
 - (2)(a) The superintendent of public instruction shall use the excess cost methodology developed and implemented for the 2001-02 school year using the S-275 personnel reporting system and all related accounting requirements to ensure that:
 - (i) Special education students are basic education students first;
 - (ii) As a class, special education students are entitled to the full basic education allocation; and

(iii) Special education students are basic education students for the entire school day.

(b) The S-275 and accounting changes in effect since the 2001-02 school year shall supercede any prior excess cost methodologies and shall be required of all school districts.

(3) Each fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(4) The superintendent of public instruction shall distribute state and federal funds to school districts based on two categories: The optional birth through age two program for special education eligible developmentally delayed infants and toddlers, and the mandatory special education program for special education eligible students ages three to twenty-one. A "special education eligible student" means a student receiving specially designed instruction in accordance with a properly formulated individualized education program.

(5)(a) For the 2003-04 and 2004-05 school years, the superintendent shall make allocations to each district based on the sum of:

(i) A district's annual average headcount enrollment of developmentally delayed infants and toddlers ages birth through two, multiplied by the district's average basic education allocation per full-time equivalent student, multiplied by 1.15; and

(ii) A district's annual average full-time equivalent basic education enrollment multiplied by the funded enrollment percent determined pursuant to subsection (6)(b) of this section, multiplied by the district's average basic education allocation per full-time equivalent student multiplied by 0.9309.

(b) For purposes of this subsection, "average basic education allocation per full-time equivalent student" for a district shall be based on the staffing ratios required by RCW 28A.150.260 and shall not include enhancements, secondary vocational education, or small schools.

(6) The definitions in this subsection apply throughout this section.

(a) "Annual average full-time equivalent basic education enrollment" means the resident enrollment including students enrolled through choice (RCW 28A.225.225) and students from nonhigh districts (RCW 28A.225.210) and excluding students residing in another district enrolled as part of an interdistrict cooperative program (RCW 28A.225.250).

(b) "Enrollment percent" means the district's resident special education annual average enrollment, excluding the birth through age two enrollment, as a percent of the district's annual average full-time equivalent basic education enrollment.

Each district's general fund—state funded special education enrollment shall be the lesser of the district's actual enrollment percent or 12.7 percent. Increases in enrollment percent from 12.7 percent to 13.0 percent shall be funded from the general fund—federal appropriation.

(7) At the request of any interdistrict cooperative of at least 15 districts in which all excess cost services for special education students of the districts are provided by the cooperative, the maximum enrollment percent shall be calculated in accordance with subsection (6)(b) of this section, and shall be calculated in the aggregate rather than individual district units. For purposes of

this subsection, the average basic education allocation per full-time equivalent student shall be calculated in the aggregate rather than individual district units.

(8) To the extent necessary, \$25,746,000 of the general fund—federal appropriation is provided for safety net awards for districts with demonstrated needs for state special education funding beyond the amounts provided in subsection (5) of this section. If safety net awards exceed the amount appropriated in this subsection (8), the superintendent shall expend all available federal discretionary funds necessary to meet this need. Safety net funds shall be awarded by the state safety net oversight committee subject to the following conditions and limitations:

(a) The committee shall consider unmet needs for districts that can convincingly demonstrate that all legitimate expenditures for special education exceed all available revenues from state funding formulas. In the determination of need, the committee shall also consider additional available revenues from federal and local sources. Differences in program costs attributable to district philosophy, service delivery choice, or accounting practices are not a legitimate basis for safety net awards.

(b) The committee shall then consider the extraordinary high cost needs of one or more individual special education students. Differences in costs attributable to district philosophy, service delivery choice, or accounting practices are not a legitimate basis for safety net awards.

(c) The maximum allowable indirect cost for calculating safety net eligibility may not exceed the federal restricted indirect cost rate for the district plus one percent.

(d) Safety net awards shall be adjusted based on the percent of potential medicaid eligible students billed as calculated by the superintendent in accordance with chapter 318, Laws of 1999.

(e) Safety net awards must be adjusted for any audit findings or exceptions related to special education funding.

(9) The superintendent of public instruction may adopt such rules and procedures as are necessary to administer the special education funding and safety net award process. Prior to revising any standards, procedures, or rules, the superintendent shall consult with the office of financial management and the fiscal committees of the legislature.

(10) The safety net oversight committee appointed by the superintendent of public instruction shall consist of:

(a) One staff from the office of superintendent of public instruction;

(b) Staff of the office of the state auditor; and

(c) One or more representatives from school districts or educational service districts knowledgeable of special education programs and funding.

(11) A maximum of \$678,000 may be expended from the general fund—state appropriations to fund 5.43 full-time equivalent teachers and 2.1 full-time equivalent aides at children's orthopedic hospital and medical center. This amount is in lieu of money provided through the home and hospital allocation and the special education program.

(12) \$1,000,000 of the general fund—federal appropriation is provided for projects to provide special education students with appropriate job and independent living skills, including work experience where possible, to facilitate

their successful transition out of the public school system. The funds provided by this subsection shall be from federal discretionary grants.

(13) The superintendent shall maintain the percentage of federal flow-through to school districts at 85 percent. In addition to other purposes, school districts may use increased federal funds for high-cost students, for purchasing regional special education services from educational service districts, and for staff development activities particularly relating to inclusion issues.

(14) A maximum of \$1,200,000 of the general fund—federal appropriation may be expended by the superintendent for projects related to use of inclusion strategies by school districts for provision of special education services. The superintendent shall prepare an information database on laws, best practices, examples of programs, and recommended resources. The information may be disseminated in a variety of ways, including workshops and other staff development activities.

(15) A school district may carry over from one year to the next year up to 10 percent of general fund—state funds allocated under this program; however, carry over funds shall be expended in the special education program.

NEW SECTION. Sec. 508. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR EDUCATIONAL SERVICE DISTRICTS

General Fund—State Appropriation (FY 2004)	\$3,538,000
General Fund—State Appropriation (FY 2005)	\$3,537,000
TOTAL APPROPRIATION	\$7,075,000

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

(1) The educational service districts shall continue to furnish financial services required by the superintendent of public instruction and RCW 28A.310.190 (3) and (4).

(2) The educational service districts, at the request of the state board of education pursuant to RCW 28A.310.010 and 28A.310.340, may receive and screen applications for school accreditation, conduct school accreditation site visits pursuant to state board of education rules, and submit to the state board of education post-site visit recommendations for school accreditation. The educational service districts may assess a cooperative service fee to recover actual plus reasonable indirect costs for the purposes of this subsection.

NEW SECTION. Sec. 509. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR LOCAL EFFORT ASSISTANCE

General Fund—State Appropriation (FY 2004)	\$162,236,000
General Fund—State Appropriation (FY 2005)	\$167,073,000
TOTAL APPROPRIATION	\$329,309,000

NEW SECTION. Sec. 510. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR INSTITUTIONAL EDUCATION PROGRAMS

General Fund—State Appropriation (FY 2004)	\$18,596,000
General Fund—State Appropriation (FY 2005)	\$19,092,000
TOTAL APPROPRIATION	\$37,688,000

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

(1) Each general fund—state fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(2) State funding provided under this section is based on salaries and other expenditures for a 220-day school year. The superintendent of public instruction shall monitor school district expenditure plans for institutional education programs to ensure that districts plan for a full-time summer program.

(3) State funding for each institutional education program shall be based on the institution's annual average full-time equivalent student enrollment. Staffing ratios for each category of institution shall remain the same as those funded in the 1995-97 biennium.

(4) The funded staffing ratios for education programs for juveniles age 18 or less in department of corrections facilities shall be the same as those provided in the 1997-99 biennium.

(5) \$279,000 of the general fund—state appropriation for fiscal year 2004 and \$286,000 of the general fund—state appropriation for fiscal year 2005 are provided solely to maintain at least one certificated instructional staff and related support services at an institution whenever the K-12 enrollment is not sufficient to support one full-time equivalent certificated instructional staff to furnish the educational program. The following types of institutions are included: Residential programs under the department of social and health services for developmentally disabled juveniles, programs for juveniles under the department of corrections, and programs for juveniles under the juvenile rehabilitation administration.

(6) Ten percent of the funds allocated for each institution may be carried over from one year to the next.

NEW SECTION. Sec. 511. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR PROGRAMS FOR HIGHLY CAPABLE STUDENTS

General Fund—State Appropriation (FY 2004)	\$6,597,000
General Fund—State Appropriation (FY 2005)	\$6,614,000
TOTAL APPROPRIATION	\$13,211,000

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

(1) Each general fund fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(2) Allocations for school district programs for highly capable students shall be distributed at a maximum rate of \$334.89 per funded student for the 2003-04 school year and \$334.89 per funded student for the 2004-05 school year, exclusive of salary and benefit adjustments pursuant to section 504 of this act. The number of funded students shall be a maximum of two percent of each district's full-time equivalent basic education enrollment.

(3) \$170,000 of the fiscal year 2004 appropriation and \$170,000 of the fiscal year 2005 appropriation are provided for the centrum program at Fort Worden state park.

(4) \$90,000 of the fiscal year 2004 appropriation and \$90,000 of the fiscal year 2005 appropriation are provided for the Washington destination imagination network and future problem-solving programs.

NEW SECTION. Sec. 512. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR MISCELLANEOUS PURPOSES UNDER THE ELEMENTARY AND SECONDARY SCHOOL IMPROVEMENT ACT AND THE NO CHILD LEFT BEHIND ACT

General Fund—Federal Appropriation \$46,198,000

NEW SECTION. Sec. 513. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—EDUCATION REFORM PROGRAMS

General Fund—State Appropriation (FY 2004) \$39,107,000

General Fund—State Appropriation (FY 2005) \$36,501,000

General Fund—Federal Appropriation \$128,402,000

TOTAL APPROPRIATION \$204,010,000

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

(1) \$310,000 of the general fund—state appropriation for fiscal year 2004 and \$310,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the academic achievement and accountability commission.

(2) \$16,050,000 of the general fund—state appropriation for fiscal year 2004, \$12,511,000 of the general fund—state appropriation for fiscal year 2005, and \$15,455,000 of the general fund—federal appropriation are provided solely for development and implementation of the Washington assessments of student learning. Of the general fund—state amounts provided:

(a) \$222,000 in fiscal year 2004 and \$244,000 in fiscal year 2005 are for providing high school students who are not successful in one or more content areas of the Washington assessment of student learning the opportunity to retake the test and \$75,000 of the fiscal year 2004 appropriation is provided for developing alternative assessments as provided in Engrossed Substitute House Bill No. 2195 (state academic standards). If Engrossed Substitute House Bill No. 2195 is not enacted by June 30, 2003, the amounts in this subsection (a) shall lapse.

(b) \$300,000 in fiscal year 2004 is for independent research on the alignment and technical review of the reading, writing, and science content areas of the Washington assessment of student learning, as provided by Engrossed Substitute House Bill No. 2195 (state academic standards). If Engrossed Substitute House Bill No. 2195 is not enacted by June 30, 2003, the amount in this subsection (b) shall lapse.

(3) \$548,000 of the fiscal year 2004 general fund—state appropriation and \$548,000 of the fiscal year 2005 general fund—state appropriation are provided solely for training of paraprofessional classroom assistants and certificated staff who work with classroom assistants as provided in RCW 28A.415.310.

(4) \$2,348,000 of the general fund—state appropriation for fiscal year 2004 and \$2,348,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for mentor teacher assistance, including state support activities, under RCW 28A.415.250 and 28A.415.260, and for a mentor academy. Up to \$200,000 of the amount in this subsection may be used each fiscal year to operate a mentor academy to help districts provide effective training for peer

mentors. Funds for the teacher assistance program shall be allocated to school districts based on the number of first year beginning teachers.

(a) A teacher assistance program is a program that provides to a first year beginning teacher peer mentor services that include but are not limited to:

(i) An orientation process and individualized assistance to help beginning teachers who have been hired prior to the start of the school year prepare for the start of a school year;

(ii) The assignment of a peer mentor whose responsibilities to the beginning teacher include but are not limited to constructive feedback, the modeling of instructional strategies, and frequent meetings and other forms of contact;

(iii) The provision by peer mentors of strategies, training, and guidance in critical areas such as classroom management, student discipline, curriculum management, instructional skill, assessment, communication skills, and professional conduct. A district may provide these components through a variety of means including one-on-one contact and workshops offered by peer mentors to groups, including cohort groups, of beginning teachers;

(iv) The provision of release time, substitutes, mentor training in observation techniques, and other measures for both peer mentors and beginning teachers, to allow each an adequate amount of time to observe the other and to provide the classroom experience that each needs to work together effectively;

(v) Assistance in the incorporation of the essential academic learning requirements into instructional plans and in the development of complex teaching strategies, including strategies to raise the achievement of students with diverse learning styles and backgrounds; and

(vi) Guidance and assistance in the development and implementation of a professional growth plan. The plan shall include a professional self-evaluation component and one or more informal performance assessments. A peer mentor may not be involved in any evaluation under RCW 28A.405.100 of a beginning teacher whom the peer mentor has assisted through this program.

(b) In addition to the services provided in (a) of this subsection, an eligible peer mentor program shall include but is not limited to the following components:

(i) Strong collaboration among the peer mentor, the beginning teacher's principal, and the beginning teacher;

(ii) Stipends for peer mentors and, at the option of a district, for beginning teachers. The stipends shall not be deemed compensation for the purposes of salary lid compliance under RCW 28A.400.200 and are not subject to the continuing contract provisions of Title 28A RCW; and

(iii) To the extent that resources are available for this purpose and that assistance to beginning teachers is not adversely impacted, the program may serve second year and more experienced teachers who request the assistance of peer mentors.

(5) \$1,959,000 of the general fund—state appropriation for fiscal year 2004 and \$1,959,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for improving technology infrastructure, monitoring and reporting on school district technology development, promoting standards for school district technology, promoting statewide coordination and planning for technology development, and providing regional educational technology support centers, including state support activities, under chapter 28A.650 RCW. The

superintendent of public instruction shall coordinate a process to facilitate the evaluation and provision of online curriculum courses to school districts which includes the following: Creation of a general listing of the types of available online curriculum courses; a survey conducted by each regional educational technology support center of school districts in its region regarding the types of online curriculum courses desired by school districts; a process to evaluate and recommend to school districts the best online courses in terms of curriculum, student performance, and cost; and assistance to school districts in procuring and providing the courses to students.

(6) \$3,594,000 of the general fund—state appropriation for fiscal year 2004 and \$3,594,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for grants to school districts to provide a continuum of care for children and families to help children become ready to learn. Grant proposals from school districts shall contain local plans designed collaboratively with community service providers. If a continuum of care program exists in the area in which the school district is located, the local plan shall provide for coordination with existing programs to the greatest extent possible. Grant funds shall be allocated pursuant to RCW 70.190.040.

(7) \$2,500,000 of the general fund—state appropriation for fiscal year 2004 and \$2,500,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the meals for kids program under RCW 28A.235.145 through 28A.235.155.

(8) \$705,000 of the general fund—state appropriation for fiscal year 2004 and \$705,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the leadership internship program for superintendents, principals, and program administrators.

(9) A maximum of \$250,000 of the general fund—state appropriation for fiscal year 2004 and a maximum of \$250,000 of the general fund—state appropriation for fiscal year 2005 are provided for summer accountability institutes offered by the superintendent of public instruction and the academic achievement and accountability commission. The institutes shall provide school district staff with training in the analysis of student assessment data, information regarding successful district and school teaching models, research on curriculum and instruction, and planning tools for districts to improve instruction in reading, mathematics, language arts, and guidance and counseling.

(10) \$3,713,000 of the general fund—state appropriation for fiscal year 2004 and \$3,713,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the Washington reading corps subject to the following conditions and limitations:

(a) Grants shall be allocated to schools and school districts to implement proven, research-based mentoring and tutoring programs in reading that may include research-based reading skills development software for low-performing students in grades K-6. If the grant is made to a school district, the principals of schools enrolling targeted students shall be consulted concerning design and implementation of the program.

(b) The programs may be implemented before, after, or during the regular school day, or on Saturdays, summer, intercessions, or other vacation periods.

(c) Two or more schools may combine their Washington reading corps programs.

(d) A program is eligible for a grant if it meets the following conditions:

(i) The program employs methods of teaching and student learning based on reliable reading/literacy research and effective practices;

(ii) The program design is comprehensive and includes instruction, ongoing student assessment, professional development, parental/community involvement, and program management aligned with the school's reading curriculum;

(iii) It provides quality professional development and training for teachers, staff, and volunteer mentors and tutors;

(iv) It has measurable goals for student reading aligned with the essential academic learning requirements;

(v) It contains an evaluation component to determine the effectiveness of the program; and

(vi) The program may include a software-based solution to increase the student/tutor ratio to a minimum of 5:1. The selected software program shall be scientifically researched-based.

(e) Funding priority shall be given to low-performing schools.

(f) Beginning and end-of-program testing data shall be available to determine the effectiveness of funded programs and practices. Common evaluative criteria across programs, such as grade-level improvements shall be available for each reading corps program. The superintendent of public instruction shall provide program evaluations to the governor and the appropriate committees of the legislature. Administrative and evaluation costs may be assessed from the annual appropriation for the program.

(g) Grants provided under this section may be used by schools and school districts for expenditures from September 2003 through August 31, 2005.

(11) \$1,564,000 of the general fund—state appropriation for fiscal year 2004 and \$2,497,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for salary bonuses for teachers who attain certification by the national board for professional teaching standards, subject to the following conditions and limitations:

(a) Teachers who hold a valid certificate from the national board during the 2003-04 or 2004-05 school years shall receive an annual bonus not to exceed \$3,500 in each of these school years in which they hold a national board certificate.

(b) The annual bonus shall be paid in a lump sum amount and shall not be included in the definition of "earnable compensation" under RCW 41.32.010(10).

(12) \$313,000 of the general fund—state appropriation for fiscal year 2004 and \$313,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for a principal support program. The office of the superintendent of public instruction may contract with an independent organization to administer the program. The program shall include: (a) Development of an individualized professional growth plan for a new principal or principal candidate; and (b) participation of a mentor principal who works over a period of between one and three years with the new principal or principal candidate to help him or her build the skills identified as critical to the success of the professional growth plan.

(13) \$126,000 of the general fund—state appropriation for fiscal year 2004 and \$126,000 of the general fund—state appropriation for fiscal year 2005 are provided for the development and posting of web-based instructional tools, assessment data, and other information that assists schools and teachers implementing higher academic standards.

(14) \$3,046,000 of the general fund—state appropriation for fiscal year 2004 and \$3,046,000 of the general fund—state appropriation for fiscal year 2005 are provided solely to the office of the superintendent of public instruction for focused assistance. The office of the superintendent of public instruction shall conduct educational audits of low-performing schools and enter into performance agreements between school districts and the office to implement the recommendations of the audit and the community. Each educational audit shall include recommendations for best practices and ways to address identified needs and shall be presented to the community in a public meeting to seek input on ways to implement the audit and its recommendations.

(15) \$1,764,000 of the general fund—state appropriation for fiscal year 2004 and \$1,764,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the mathematics helping corps subject to the following conditions and limitations:

(a) In order to increase the availability and quality of technical mathematics assistance statewide, the superintendent of public instruction shall employ mathematics school improvement specialists to provide assistance to schools and districts. The specialists shall be hired by and work under the direction of a statewide school improvement coordinator. The mathematics improvement specialists shall not be permanent employees of the superintendent of public instruction.

(b) The school improvement specialists shall provide the following:

(i) Assistance to schools to disaggregate student performance data and develop improvement plans based on those data;

(ii) Consultation with schools and districts concerning their performance on the Washington assessment of student learning and other assessments emphasizing the performance on the mathematics assessments;

(iii) Consultation concerning curricula that aligns with the essential academic learning requirements emphasizing the academic learning requirements for mathematics, the Washington assessment of student learning, and meets the needs of diverse learners;

(iv) Assistance in the identification and implementation of research-based instructional practices in mathematics;

(v) Staff training that emphasizes effective instructional strategies and classroom-based assessment for mathematics;

(vi) Assistance in developing and implementing family and community involvement programs emphasizing mathematics; and

(vii) Other assistance to schools and school districts intended to improve student mathematics learning.

(16) \$87,901,000 of the general fund—federal appropriation is provided for preparing, training, and recruiting high quality teachers and principals under Title II of the no child left behind act.

(17) \$25,046,000 of the general fund—federal appropriation is provided for the reading first program under Title I of the no child left behind act.

NEW SECTION. Sec. 514. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR TRANSITIONAL BILINGUAL PROGRAMS

General Fund—State Appropriation (FY 2004).....	\$49,791,000
General Fund—State Appropriation (FY 2005).....	\$52,062,000
General Fund—Federal Appropriation (FY 2005).....	\$46,309,000
TOTAL APPROPRIATION	\$148,162,000

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

(1) Each general fund fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(2) The superintendent shall distribute a maximum of \$725.11 per eligible bilingual student in the 2003-04 school year and \$725.11 in the 2004-05 school year, exclusive of salary and benefit adjustments provided in section 504 of this act.

(3) The superintendent may withhold up to \$700,000 in school year 2003-04 and up to \$700,000 in school year 2004-05, and adjust the per eligible pupil rates in subsection (2) of this section accordingly, for the central provision of assessments as provided in RCW 28A.180.090 (1) and (2).

(4) \$70,000 of the amounts appropriated in this section are provided solely to develop a system for the tracking of current and former transitional bilingual program students.

(5) The general fund—federal appropriation in this section is provided for migrant education under Title I Part C and English language acquisition, and language enhancement grants under Title III of the elementary and secondary education act.

NEW SECTION. Sec. 515. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR THE LEARNING ASSISTANCE PROGRAM

General Fund—State Appropriation (FY 2004).....	\$65,385,000
General Fund—State Appropriation (FY 2005).....	\$64,051,000
General Fund—Federal Appropriation.....	\$307,178,000
TOTAL APPROPRIATION	\$436,614,000

(1) The general fund—state appropriations in this section are subject to the following conditions and limitations:

(a) Each general fund—state fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(b) Funding for school district learning assistance programs shall be allocated at maximum rates of \$432.15 per funded unit for the 2003-04 school year and \$433.03 per funded unit for the 2004-05 school year exclusive of salary and benefit adjustments provided under section 504 of this act.

(c) For purposes of this section, "test results" refers to the district results from the norm-referenced test administered in the specified grade level. The norm-referenced test results used for the third and sixth grade calculations shall be consistent with the third and sixth grade tests required under RCW 28A.230.190 and 28A.230.193.

(d) A school district's general fund—state funded units shall be the sum of the following:

(i) The district's full-time equivalent enrollment in grades K-6, multiplied by the 5-year average 4th grade lowest quartile test results as adjusted for funding purposes in the school years prior to 1999-2000, multiplied by 0.82. As the 3rd grade test becomes available, it shall be phased into the 5-year average on a 1-year lag;

(ii) The district's full-time equivalent enrollment in grades 7-9, multiplied by the 5-year average 8th grade lowest quartile test results as adjusted for funding purposes in the school years prior to 1999-2000, multiplied by 0.82. As the 6th grade test becomes available, it shall be phased into the 5-year average for these grades on a 1-year lag;

(iii) The district's full-time equivalent enrollment in grades 10-11 multiplied by the 5-year average 11th grade lowest quartile test results, multiplied by 0.82. As the 9th grade test becomes available, it shall be phased into the 5-year average for these grades on a 1-year lag;

(iv) If, in the prior school year, the district's percentage of October headcount enrollment in grades K-12 eligible for free and reduced price lunch exceeded the state average, subtract the state average percentage of students eligible for free and reduced price lunch from the district's percentage and multiply the result by the district's K-12 annual average full-time equivalent enrollment for the current school year multiplied by 22.3 percent; and

(v) In addition to amounts allocated under (d) of this subsection, for school districts in which the effective Title I Part A (basic program) increase is insufficient to cover the formula change in the multiplier from .92 to .82, a state allocation shall be provided that, when combined with the effective increase in federal Title I Part A (basic program) funds from the 2001-02 school year, is sufficient to cover this amount. The effective Title I Part A (basic program) increase is the current school year federal Title I Part A (basic program) allocation minus the 2001-02 school year federal Title I Part A (basic program) allocation, after the 2001-02 Title I Part A allocation has been inflated by three percent.

(2) The general fund—federal appropriation in this section is provided for Title I Part A allocations of the no child left behind act of 2001.

NEW SECTION. Sec. 516. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR STUDENT ACHIEVEMENT PROGRAM

Student Achievement Fund—State

Appropriation (FY 2004) \$203,123,000

Student Achievement Fund—State

Appropriation (FY 2005) \$195,080,000

TOTAL APPROPRIATION \$398,203,000

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

(1) Funding for school district student achievement programs shall be allocated at a maximum rate of \$211.67 per FTE student for the 2003-04 school year and \$254.00 per FTE student for the 2004-05 school year. For the purposes of this section and in accordance with RCW 84.52.068, FTE student refers to the

annual average full-time equivalent enrollment of the school district in grades kindergarten through twelve for the prior school year.

(2) The appropriation is allocated for the following uses as specified in RCW 28A.505.210:

(a) To reduce class size by hiring certificated elementary classroom teachers in grades K-4 and paying nonemployee-related costs associated with those new teachers;

(b) To make selected reductions in class size in grades 5-12, such as small high school writing classes;

(c) To provide extended learning opportunities to improve student academic achievement in grades K-12, including, but not limited to, extended school year, extended school day, before-and-after-school programs, special tutoring programs, weekend school programs, summer school, and all-day kindergarten;

(d) To provide additional professional development for educators including additional paid time for curriculum and lesson redesign and alignment, training to ensure that instruction is aligned with state standards and student needs, reimbursement for higher education costs related to enhancing teaching skills and knowledge, and mentoring programs to match teachers with skilled, master teachers. The funding shall not be used for salary increases or additional compensation for existing teaching duties, but may be used for extended year and extended day teaching contracts;

(e) To provide early assistance for children who need prekindergarten support in order to be successful in school; or

(f) To provide improvements or additions to school building facilities which are directly related to the class size reductions and extended learning opportunities under (a) through (c) of this subsection (2).

(3) For the 2003-04 school year, the office of the superintendent of public instruction shall distribute ten percent of the school year allocation to districts each month for the months of September through June. For the 2004-05 school year, the superintendent of public instruction shall distribute the school year allocation according to the monthly apportionment schedule defined in RCW 28A.510.250.

NEW SECTION. Sec. 517. K-12 CARRYFORWARD AND PRIOR SCHOOL YEAR ADJUSTMENTS. State general fund appropriations provided to the superintendent of public instruction for state entitlement programs in the public schools in this part V of this act may be expended as needed by the superintendent for adjustments to apportionment for prior fiscal periods. Recoveries of state general fund moneys from school districts and educational service districts for a prior fiscal period shall be made as reductions in apportionment payments for the current fiscal period and shall be shown as prior year adjustments on apportionment reports for the current period. Such recoveries shall not be treated as revenues to the state, but as a reduction in the amount expended against the appropriation for the current fiscal period.

PART VI HIGHER EDUCATION

NEW SECTION. Sec. 601. The appropriations in sections 603 through 609 of this act are subject to the following conditions and limitations:

(1) "Institutions" means the institutions of higher education receiving appropriations under sections 603 through 609 of this act.

(2)(a) The salary increases provided or referenced in this subsection shall be the only allowable salary increases provided at institutions of higher education, excluding increases associated with normally occurring promotions and increases related to faculty and professional staff retention, and excluding increases associated with employees under the jurisdiction of chapter 41.56 RCW pursuant to the provisions of RCW 28B.16.015 and 28B.50.874(1).

(b) For employees under the jurisdiction of chapter 41.56 RCW pursuant to the provisions of RCW 28B.16.015 and 28B.50.874(1), salary increases will be in accordance with the applicable collective bargaining agreement. However, an increase shall not be provided to any classified employee whose salary is above the approved salary range maximum for the class to which the employee's position is allocated.

(c) Each institution of higher education receiving appropriations for salary increases under sections 604 through 609 of this act may provide additional salary increases from other sources to instructional and research faculty, exempt professional staff, academic administrators, academic librarians, counselors, teaching and research assistants, as classified by the office of financial management, and all other nonclassified staff, but not including employees under RCW 28B.16.015. Any additional salary increase granted under the authority of this subsection (2)(c) shall not be included in an institution's salary base for future state funding. It is the intent of the legislature that general fund—state support for an institution shall not increase during the current or any future biennium as a result of any salary increases authorized under this subsection (2)(c).

(d) The legislature, the office of financial management, and other state agencies need consistent and accurate personnel data from institutions of higher education for policy planning purposes. Institutions of higher education shall report personnel data to the department of personnel for inclusion in the department's data warehouse. Uniform reporting procedures shall be established by the department of personnel for use by the reporting institutions, including provisions for common job classifications and common definitions of full-time equivalent staff. Annual contract amounts, number of contract months, and funding sources shall be consistently reported for employees under contract.

(3) The tuition fees, as defined in chapter 28B.15 RCW, charged to full-time students at the state's institutions of higher education for the 2003-04 and 2004-05 academic years, other than the summer term, shall be adjusted by the governing boards of the state universities, regional universities, The Evergreen State College, and the state board for community and technical colleges. Tuition fees may be increased in excess of the fiscal growth factor.

For the 2003-04 academic year, the governing boards of the state universities, regional universities, The Evergreen State College, and the state board for community and technical colleges may implement an increase no greater than seven percent over tuition fees charged to full-time resident undergraduate students for the 2002-03 academic year.

For the 2004-05 academic year, the governing boards of the state universities, regional universities, The Evergreen State College, and the state board for community and technical colleges may implement an increase no

greater than seven percent over tuition fees charged to full-time resident undergraduate students for the 2003-04 academic year.

(4) For the 2003-05 biennium, the state board for community and technical colleges may increase tuition fees differentially based on student credit hour load at their discretion.

(5) For the 2003-05 biennium, the governing boards and the state board may adjust full-time operating fees for factors that may include time of day and day of week, as well as delivery method and campus, to encourage full use of the state's educational facilities and resources.

(6) For the 2004-05 academic year, the legislature hereby lowers the limit on total gross authorized operating fees revenue waived, exempted, or reduced by state institutions of higher education pursuant to RCW 28B.15.910 as follows:

- (a) University of Washington, 20.48 percent
- (b) Washington State University, 19.5 percent
- (c) Eastern Washington University, 10.73 percent
- (d) Central Washington University, 7.8 percent
- (e) Western Washington University, 9.75 percent
- (f) The Evergreen State College, 5.85 percent
- (g) Community colleges as a whole, 33.6 percent.

Further, the governing boards and the state board are encouraged to reduce waiver activity in recognition of the need to retain available resources to preserve the educational quality of higher education institutions. State general fund appropriations shall not be provided to replace tuition and fee revenue foregone as a result of waivers granted under authority of RCW 28B.15.915.

(7) In addition to waivers granted under the authority of RCW 28B.15.910, the governing boards and the state board may waive all or a portion of operating fees for any student. State general fund appropriations shall not be provided to replace tuition and fee revenue foregone as a result of waivers granted under this subsection.

(8) Pursuant to RCW 43.135.055, institutions of higher education receiving appropriations under sections 603 through 609 of this act are authorized to increase summer term tuition in excess of the fiscal growth factor during the 2003-05 biennium. Tuition levels increased pursuant to this subsection shall not exceed the per credit hour rate calculated from the academic year tuition levels adopted under this act.

(9) Community colleges may increase services and activities fee charges in excess of the fiscal growth factor up to the maximum level authorized by the state board for community and technical colleges.

(10) Each institution receiving appropriations under sections 604 through 609 of this act shall submit a biennial plan to achieve measurable and specific improvements each academic year as part of a continuing effort to make meaningful and substantial progress towards the achievement of long-term performance goals. The plans, to be prepared at the direction of the higher education coordinating board, shall be submitted by August 15, 2003. The higher education coordinating board shall set biennial performance targets for each institution and shall review actual achievements annually. Institutions shall track their actual performance on the statewide measures as well as faculty productivity, the goals and targets for which may be unique to each institution.

A report on progress towards statewide and institution-specific goals, with recommendations for the ensuing biennium, shall be submitted to the fiscal and higher education committees of the legislature by November 15, 2005.

(11) The state board for community and technical colleges shall develop a biennial plan to achieve measurable and specific improvements each academic year as part of a continuing effort to make meaningful and substantial progress to achieve long-term performance goals. The board shall set biennial performance targets for each college or district, where appropriate, and shall review actual achievements annually. Colleges shall track their actual performance on the statewide measures. A report on progress towards the statewide goals, with recommendations for the ensuing biennium, shall be submitted to the fiscal and higher education committees of the legislature by November 15, 2005.

NEW SECTION. Sec. 602. (1) The appropriations in sections 603 through 610 of this act provide state general fund support for full-time equivalent student enrollments at each institution of higher education. Listed below are the annual full-time equivalent student enrollments by institutions assumed in this act.

	2003-04 Annual Average	2004-05 Annual Average
University of Washington		
Main campus	32,427	32,427
Bothell branch	1,235	1,235
Tacoma branch	1,484	1,484
Washington State University		
Main campus	17,348	17,364
Spokane branch	593	593
Tri-Cities branch	616	616
Vancouver branch	1,153	1,153
Central Washington University	7,666	7,666
Eastern Washington University	8,017	8,017
The Evergreen State College	3,837	3,837
Western Washington University	11,126	11,126
State Board for Community and Technical Colleges	126,070	126,070
Higher Education Coordinating Board	246	500

(2)(a) In addition to the annual full-time equivalent student enrollments enumerated in this section, funding is provided in (i) section 603 of this act for additional community or technical college full-time equivalent student

enrollments in high-demand fields of study and (ii) section 722 of this act (special appropriations to the governor) for additional full-time equivalent transfer student enrollments with junior-class standing.

(b) For the state universities, the number of full-time equivalent student enrollments enumerated in this section for the branch campuses are the minimum required enrollment levels for those campuses. At the start of an academic year, the governing board of a state university may transfer full-time equivalent student enrollments from the main campus to one or more branch campus. Intent notice shall be provided to the office of financial management and reassignment of funded enrollment is contingent upon satisfying data needs of the forecast division who is responsible to track and monitor state-supported college enrollment.

NEW SECTION. Sec. 603. FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

General Fund—State Appropriation (FY 2004).....	\$507,960,000
General Fund—State Appropriation (FY 2005).....	\$517,854,000
Administrative Contingency Account—State	
Appropriation.....	\$3,200,000
TOTAL APPROPRIATION.....	\$1,029,014,000

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

(1) The technical colleges may increase tuition and fees in excess of the fiscal growth factor to conform with the percentage increase in community college operating fees.

(2) \$1,250,000 of the general fund—state appropriation for fiscal year 2004 and \$1,250,000 of the general fund—state appropriation for fiscal year 2005 are provided solely to increase salaries and related benefits for part-time faculty. The board shall report by January 30, 2004, to the office of financial management and legislative fiscal and higher education committees on (a) the distribution of state funds; and (b) wage adjustments for part-time faculty.

(3) \$1,250,000 of the general fund—state appropriation for fiscal year 2004 and \$1,250,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for faculty salary increments and associated benefits and may be used in combination with salary and benefit savings from faculty turnover to provide salary increments and associated benefits.

(4) \$1,000,000 of the general fund—state appropriation for fiscal year 2004 and \$1,000,000 of the general fund—state appropriation for fiscal year 2005 are provided for a program to fund the start-up of new community and technical college programs in rural counties as defined under RCW 43.160.020(12) and in communities impacted by business closures and job reductions. Successful proposals must respond to local economic development strategies and must include a plan to continue programs developed with this funding.

(5) \$675,000 of the general fund—state appropriation for fiscal year 2004 and \$675,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for allocation to Clark Community College and Lower Columbia Community College to prepare a total of 168 full-time equivalent students for transfer to the engineering and science institute at the Vancouver branch campus of Washington State University. The appropriations in this

section are intended to supplement, not supplant, general enrollment allocations by the board to districts named in this subsection.

(6) \$640,000 of the general fund—state appropriation for fiscal year 2004 and \$640,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for allocation to twelve college districts identified in (a) through (l) of this subsection to prepare students for transfer to the state technology institute at the Tacoma branch campus of the University of Washington. The appropriations in this section are intended to supplement, not supplant, general enrollment allocations by the board to the districts under (a) through (l) of this subsection:

- (a) Bates Technical College;
- (b) Bellevue Community College;
- (c) Centralia Community College;
- (d) Clover Park Community College;
- (e) Grays Harbor Community College;
- (f) Green River Community College;
- (g) Highline Community College;
- (h) Tacoma Community College;
- (i) Olympic Community College;
- (j) Pierce District;
- (k) Seattle District; and
- (l) South Puget Sound Community College.

(7) \$28,761,000 of the general fund—state appropriation for fiscal year 2004 and \$28,761,000 of the general fund—state appropriation for fiscal year 2005 are provided solely as special funds for training and related support services, including financial aid, as specified in chapter 226, Laws of 1993 (employment and training for unemployed workers). Funding is provided to support up to 6,200 full-time equivalent students in each fiscal year.

(8) \$1,000,000 of the general fund—state appropriation for fiscal year 2004 and \$1,000,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for tuition support for students enrolled in work-based learning programs.

(9) \$2,950,000 of the administrative contingency account—state appropriation is provided solely for administration and customized training contracts through the job skills program, which shall be made available broadly and not to the exclusion of private nonprofit baccalaureate degree granting institutions or vocational arts career schools operating in Washington state who partner with a firm, hospital, group, or industry association concerned with commerce, trade, manufacturing, or the provision of services to train current or prospective employees. The state board shall make an annual report by January 1 of each fiscal year to the governor and appropriate policy and fiscal committees of the legislature regarding the implementation of this section listing the scope of grant awards, the distribution of funds by educational sector and region of the state, as well as successful partnerships being supported by these state funds.

(10) \$250,000 of the administrative contingency account—state appropriation is provided solely and on a one-time basis to start up a college district consortium organized under the name "alliance for corporate education."

Financial operations shall be self-sustaining by no later than June 30, 2005, after which time any amount remaining unexpended from this amount shall lapse.

(11) \$50,000 of the general fund—state appropriation for fiscal year 2004 and \$50,000 of the general fund—state appropriation for fiscal year 2005 are solely for higher education student child care matching grants under chapter 28B.135 RCW.

(12) \$212,000 of the general fund—state appropriation for fiscal year 2004 and \$212,000 of the general fund—state appropriation for fiscal year 2005 are provided for allocation to Olympic college. The college shall contract with accredited baccalaureate institution(s) to bring a program of upper-division courses to Bremerton. The state board for community and technical colleges shall report to the office of financial management and the fiscal and higher education committees of the legislature on the implementation of this subsection by December 1st of each fiscal year.

(13) \$6,304,000 of the general fund—state appropriation for fiscal year 2004 and \$6,305,000 of the general fund—state appropriation for fiscal year 2005 are provided solely to expand enrollment in high-demand fields.

(a) High-demand fields means (i) health services, (ii) applied science and engineering, (iii) viticulture and enology, and (iv) expansion of worker retraining programs. The state board shall allocate resources among the four areas specified in this subsection and shall manage a competitive process for awarding resources for health services, viticulture, enology, and applied science and engineering programs.

(b) The state board shall provide information on the number of additional headcount and full-time equivalent students enrolled in high-demand fields by November 1 of each fiscal year to the office of financial management and the fiscal and higher education committees of the legislature.

(14) \$111,000 of the general fund—state appropriation for fiscal year 2004 and \$86,000 of the general fund—state appropriation for fiscal year 2005 are provided solely to support the development of a comprehensive viticulture (grape growing) and enology (wine making) higher education program in Washington state. From these sums, the state board shall allocate:

(a) \$75,000 a year to Walla Walla community college for its associate science and associate arts degree programs for the purpose of vineyard and wine-making equipment purchases, student labor, instructional supplies, field work, and travel expenses;

(b) \$25,000 on a one-time basis to Wenatchee community college for the purpose of adapting its orchard employee educational program; and

(c) \$22,000 on a one-time basis to Yakima Valley community college for the purpose of vineyard and wine-making equipment and supply purchases.

The college districts named in this subsection are encouraged to seek a portion of the high-demand student enrollment funding made available on a competitive basis through the state board to address their respective need for additional instructors and professional staff.

NEW SECTION. Sec. 604. FOR THE UNIVERSITY OF WASHINGTON

General Fund—State Appropriation (FY 2004)	\$311,628,000
General Fund—State Appropriation (FY 2005)	\$319,584,000
General Fund—Private/Local Appropriation	\$300,000

Death Investigations Account—State

Appropriation	\$261,000
Accident Account—State Appropriation	\$5,937,000
Medical Aid Account—State Appropriation	\$5,960,000
TOTAL APPROPRIATION	\$643,670,000

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

(1) \$1,875,000 of the general fund—state appropriation for fiscal year 2004 and \$1,875,000 of the general fund—state appropriation for fiscal year 2005 are provided solely to create a state resource for technology education in the form of an institute located at the University of Washington, Tacoma. The university will continue to provide undergraduate and graduate degree programs meeting regional technology needs including, but not limited to, computing and software systems. As a condition of these appropriations:

(a) The university will work with the state board for community and technical colleges, or individual colleges where necessary, to establish articulation agreements in addition to the existing associate of arts and associate of science transfer degrees. Such agreements shall improve the transferability of students and in particular, students with substantial applied information technology credits.

(b) The university will establish performance measures for recruiting, retaining and graduating students, including nontraditional students, and report back to the governor and legislature by September 2004 as to its progress and future steps.

(2) \$150,000 of the general fund—state appropriation for fiscal year 2004 and \$150,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for research faculty clusters in the advanced technology initiative program.

(3) The entire death investigations account appropriation is provided for the forensic pathologist fellowship program.

(4) \$150,000 of the general fund—state appropriation for fiscal year 2004 and \$150,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the implementation of the Puget Sound work plan and agency action item UW-01.

(5) \$75,000 of the general fund—state appropriation for fiscal year 2004 and \$75,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the Olympic natural resources center.

(6) \$1,526,000 of the general fund—state appropriation for fiscal year 2004 and \$3,096,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for competitively offered recruitment and retention salary adjustments for instructional and research faculty, exempt professional staff, academic administrators, academic librarians, counselors, teaching and research assistants, as classified by the office of financial management, and all other nonclassified staff, but not including employees under RCW 28B.16.015. Tuition revenues may be expended in addition to those required by this section to further provide recruitment and retention salary adjustments.

(7) \$1,250,000 of the general fund—state appropriation for fiscal year 2004 and \$1,250,000 of the general fund—state appropriation for fiscal year 2005 are

provided solely for state match to attract or retain federal research grants in high demand and technologically advanced fields.

(8) \$300,000 of the general fund—private/local appropriation is provided solely for shellfish biotoxin monitoring as specified in Chapter 263, Laws of 2003 (SSB 6073, shellfish license fee).

NEW SECTION. Sec. 605. FOR WASHINGTON STATE UNIVERSITY

General Fund—State Appropriation (FY 2004)	\$185,265,000
General Fund—State Appropriation (FY 2005)	\$189,954,000
Washington State University Building Account—	
State Appropriation	\$150,000
TOTAL APPROPRIATION	\$375,369,000

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

(1) \$507,000 of the general fund—state appropriation for fiscal year 2004 and \$1,014,000 of the general fund—state appropriation for fiscal year 2005 are provided solely to expand the entering class of veterinary medicine students by 16 full-time equivalent residents each academic year during the 2003-05 biennium.

(2) \$657,000 of the general fund—state appropriation for fiscal year 2004, \$180,000 of the general fund—state appropriation for fiscal year 2005, and the entire Washington state university building account appropriation are provided solely to support the development of a comprehensive viticulture (grape growing) and enology (wine making) higher education program in Washington state. In consideration of these appropriations, the legislature intends to provide ongoing support of not less than \$180,000 a year for extension field personnel and services. The balance of the amount provided from the fiscal year 2004 appropriation is provided on a one-year basis to enable the university to appoint jointly shared faculty between the Pullman main campus and its branch campus in the TriCities. The legislature expects the university to meet ongoing faculty, staff, and related expenses to support the delivery of baccalaureate degree programs in viticulture and enology by making a successful bid for a portion of high-demand enrollment funding that will be distributed on a competitive basis by the state higher education coordinating board for student instruction pursuant to section 610(3) of this act.

(3) \$675,000 of the general fund—state appropriation for fiscal year 2004 and \$675,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for allocation in full to the branch campus in Vancouver to create and operate a state institute for engineering and science in partnership with Clark and Lower Columbia community colleges and regional industry leaders in southwest Washington. As a condition of this appropriation, the university shall develop and provide to the satisfaction of the office of financial management a business plan for the new institute. The university, together with its two-year college and industry partners, shall provide the governor, legislature, and state higher education coordinating board with an annual summary of its progress to produce more graduates trained in applied science technologies and engineering. Annual reports to inform and advise policymakers of the partners' success,

emerging issues, and resource needs if any shall occur by no later than November 15 during the 2003-05 biennium.

(4) \$150,000 of the general fund—state appropriation for fiscal year 2004 and \$150,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for research faculty clusters in the advanced technology initiative program.

(5) \$165,000 of the general fund—state appropriation for fiscal year 2004 and \$166,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the implementation of the Puget Sound work plan and agency action item WSU-01.

(6) \$949,000 of the general fund—state appropriation for fiscal year 2004 and \$1,927,000 of general fund—state appropriation for fiscal year 2005 are provided solely for competitively offered recruitment and retention salary adjustments for instructional and research faculty, exempt professional staff, academic administrators, academic librarians, counselors, teaching and research assistants, as classified by the office of financial management, and all other nonclassified staff, but not including employees under RCW 28B.16.015. Tuition revenues may be expended in addition to those required by this section to further provide recruitment and retention salary adjustments.

NEW SECTION. Sec. 606. FOR EASTERN WASHINGTON UNIVERSITY

General Fund—State Appropriation (FY 2004)	\$40,861,000
General Fund—State Appropriation (FY 2005)	\$42,183,000
TOTAL APPROPRIATION	\$83,044,000

The appropriations in this section are subject to the following conditions and limitations: \$248,000 of the general fund—state appropriation for fiscal year 2004 and \$503,000 of general fund—state appropriation for fiscal year 2005 are provided solely for competitively offered recruitment and retention salary adjustments for instructional and research faculty, exempt professional staff, academic administrators, academic librarians, counselors, teaching and research assistants, as classified by the office of financial management, and all other nonclassified staff, but not including employees under RCW 28B.16.015. Tuition revenues may be expended in addition to those required by this section to further provide recruitment and retention salary adjustments.

NEW SECTION. Sec. 607. FOR CENTRAL WASHINGTON UNIVERSITY

General Fund—State Appropriation (FY 2004)	\$39,765,000
General Fund—State Appropriation (FY 2005)	\$41,391,000
TOTAL APPROPRIATION	\$81,156,000

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

(1) \$1,050,000 of the general fund—state appropriation for fiscal year 2004 and \$1,050,000 of the general fund—state appropriation for fiscal year 2005 are provided to expand university enrollment by 196 full-time equivalent students.

(2) \$206,000 of the general fund—state appropriation for fiscal year 2004 and \$418,000 of general fund—state appropriation for fiscal year 2005 are provided solely for competitively offered recruitment and retention salary

adjustments for instructional and research faculty, exempt professional staff, academic administrators, academic librarians, counselors, teaching and research assistants, as classified by the office of financial management, and all other nonclassified staff, but not including employees under RCW 28B.16.015. Tuition revenues may be expended in addition to those required by this section to further provide recruitment and retention salary adjustments.

NEW SECTION. Sec. 608. FOR THE EVERGREEN STATE COLLEGE

General Fund—State Appropriation (FY 2004)	\$22,881,000
General Fund—State Appropriation (FY 2005)	\$23,618,000
TOTAL APPROPRIATION	\$46,499,000

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

(1) \$124,000 of the general fund—state appropriation for fiscal year 2004 and \$252,000 of general fund—state appropriation for fiscal year 2005 are provided solely for competitively offered recruitment and retention salary adjustments for instructional and research faculty, exempt professional staff, academic administrators, academic librarians, counselors, teaching and research assistants, as classified by the office of financial management, and all other nonclassified staff, but not including employees under RCW 28B.16.015. Tuition revenues may be expended in addition to those required by this section to further provide recruitment and retention salary adjustments.

(2) The Washington state institute for public policy shall research the following issues and provide reports to the legislature as directed. The institute board shall prioritize and schedule all studies based on staff capacity.

(a) \$110,000 of the general fund—state appropriation for fiscal year 2004 is provided solely for the Washington state institute for public policy to review research assessing the effectiveness of prevention and early intervention programs concerning children and youth, including but not limited to, programs designed to reduce the at-risk behaviors for children and youth identified in RCW 70.190.010(4).

Using this research, the institute shall identify specific research-proven programs that produce a positive return on the dollar compared to the costs of the program. The institute shall also develop criteria designed to ensure quality implementation and program fidelity of research-proven programs in the state. The criteria shall include measures for ongoing monitoring and continual improvement of treatment delivery, and shall be feasible for inclusion in a contract for services. The institute shall develop recommendations for potential state legislation that encourages local government investment in research-proven prevention and early intervention programs by reimbursing local governments for a portion of the savings that accrue to the state as the result of local investments in such programs. The institute shall present a preliminary report of its findings to the appropriate committees of the legislature by December 1, 2003, and shall present a final report by March 1, 2004.

(b) \$26,000 of the general fund—state appropriation for fiscal year 2004 is provided solely for the Washington state institute for public policy to develop adherence and outcome standards for measuring the effectiveness of treatment programs referred to in Chapter 378, Laws of 2003 (ESSB 5903). The standards

shall be developed and presented to the governor and legislature by no later than January 1, 2004.

(c) \$100,000 of the general fund—state appropriation for fiscal year 2004 is provided solely for the Washington state institute for public policy to study the relationship between prison overcrowding and construction, and the current state criminal sentencing structure.

(i) The institute shall determine whether any changes could be made to the current state sentencing structure to address prison overcrowding and the need for new prison construction, giving great weight to the primary purposes of the criminal justice system. These purposes include: Protecting community safety; making frugal use of state and local government resources by concentrating resources on violent offenders and sex offenders who pose the greatest risk to our communities; achieving proportionality in sentencing; and reducing the risk of reoffending by offenders in the community.

(ii) In developing its research plan, the institute may consult with the sentencing guidelines commission, the caseload forecast council, and interested stakeholders.

(iii) The institute for public policy shall present a preliminary report of its findings to the governor and to the appropriate standing committees of the legislature by December 15, 2003, and shall present a final report regarding its findings and recommendations by March 15, 2004.

(d) \$12,000 of the general fund—state appropriation for fiscal year 2004 and \$12,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the Washington state institute for public policy to examine the results of the changes in earned release under Chapter 379, Laws of 2003 (ESSB 5990). The study shall determine whether the changes in earned release affect the rate of recidivism or the type of offenses committed by persons whose release dates were affected by the changes under the bill. The institute shall report its findings to the governor and appropriate committees of the legislature by no later than December 1, 2008.

(e) \$25,000 of the general fund—state appropriation for fiscal year 2004 and \$25,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the institute for public policy to conduct the evaluation outlined in Substitute Senate Bill No. 5012 (charter schools). If the bill is not enacted by June 30, 2003, the amounts provided in this subsection shall lapse.

NEW SECTION. Sec. 609. FOR WESTERN WASHINGTON UNIVERSITY

General Fund—State Appropriation (FY 2004)	\$53,645,000
General Fund—State Appropriation (FY 2005)	\$55,537,000
TOTAL APPROPRIATION	\$109,182,000

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

(1) \$980,400 of the general fund—state appropriation for fiscal year 2004 and \$980,400 of the general fund—state appropriation for fiscal year 2005 are provided solely for the operations of the North Snohomish, Island, Skagit (NSIS) higher education consortium.

(2) \$248,000 of the general fund—state appropriation for fiscal year 2004 and \$503,000 of general fund—state appropriation for fiscal year 2005 are

provided solely for competitively offered recruitment and retention salary adjustments for instructional and research faculty, exempt professional staff, academic administrators, academic librarians, counselors, teaching and research assistants, as classified by the office of financial management, and all other nonclassified staff, but not including employees under RCW 28B.16.015. Tuition revenues may be expended in addition to those required by this section to further provide recruitment and retention salary adjustments.

NEW SECTION. Sec. 610. FOR THE HIGHER EDUCATION COORDINATING BOARD—POLICY COORDINATION AND ADMINISTRATION

General Fund—State Appropriation (FY 2004)	\$4,952,000
General Fund—State Appropriation (FY 2005)	\$7,716,000
General Fund—Federal Appropriation	\$642,000
TOTAL APPROPRIATION	\$13,310,000

The appropriations in this section are provided to carry out the policy coordination, planning, studies and administrative functions of the board and are subject to the following conditions and limitations:

(1) Within the appropriations provided in this section, funds are provided to continue the teacher training pilot program pursuant to chapter 28B.80 RCW until standing authority for this program expires as scheduled on January 1, 2005.

(2) \$175,000 of the general fund—state appropriation for fiscal year 2004 and \$175,000 of the general fund—state appropriation for fiscal year 2005 are provided solely to continue a demonstration project to improve rural access to post-secondary education by bringing distance learning technologies into Jefferson county.

(3) \$2,755,000 of the general fund—state appropriation for fiscal year 2004 and \$5,520,000 of the general fund—state appropriation for fiscal year 2005 are provided solely to contract for 246 full-time equivalent students in high demand fields in fiscal year 2004 and an additional 254 full-time equivalent students in high demand fields in fiscal year 2005. High-demand fields are programs where enrollment access is limited and employers are experiencing difficulty finding qualified graduates to fill job openings. Of the amounts provided, up to \$70,000 may be used for management of the competitive process for awarding high-demand student FTEs during the 2003-05 biennium.

(a) The board will manage a competitive process for awarding high-demand student FTEs. Public baccalaureate institutions are eligible to apply for funding and may submit proposals that include cooperative partnerships with private independent institutions.

(b) Among coequals, the board shall make it a priority to fund proposals that prepare students for careers in (i) nursing and other health services; (ii) applied science and engineering; (iii) teaching and speech pathology; (iv) computing and information technology; and (v) viticulture and enology, but not to the exclusion of compelling proposals that document specific regional student and employer demand in fields not listed in this subsection. Proposals and grant awards will separately identify one-time, nonrecurring costs and ongoing costs.

(c) The board will establish a proposal review committee that will include, but not be limited to, representatives from the board, the office of financial

management, and economic development and labor market analysts. The board will develop the request for proposals, including the criteria for awarding grants, in consultation with the proposal review committee.

(d) Baccalaureate institutions that receive grants shall provide the board and the forecast division of the office of financial management with data specified by the board or the office of financial management that shows the impact of this subsection, particularly the degree of improved access to high-demand programs for students and successful job placements for graduates. The board will report on the implementation of this subsection by November 1 of each fiscal year to the office of financial management and the fiscal and higher education committees of the legislature.

NEW SECTION. Sec. 611. FOR THE HIGHER EDUCATION COORDINATING BOARD—FINANCIAL AID AND GRANT PROGRAMS

General Fund—State Appropriation (FY 2004)	\$145,217,000
General Fund—State Appropriation (FY 2005)	\$154,412,000
General Fund—Federal Appropriation	\$7,530,000
TOTAL APPROPRIATION	\$307,159,000

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

(1) \$259,000 of the general fund—state appropriation for fiscal year 2004 and \$273,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the western interstate commission for higher education.

(2) \$1,100,000 of the general fund—state appropriation for fiscal year 2004 and \$1,100,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the health professional conditional scholarship and loan program under chapter 28B.115 RCW. This amount shall be deposited to the health professional loan repayment and scholarship trust fund to carry out the purposes of the program.

(3) \$75,000 of the general fund—state appropriation for fiscal year 2004 and \$75,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for higher education student child care matching grants under chapter 28B.135 RCW.

(4) \$25,000 of the general fund—state appropriation for fiscal year 2004 and \$25,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the benefit of students who participate in college assistance migrant programs (CAMP) operating in Washington state. To ensure timely state aid, the board may establish a date after which no additional grants would be available for the 2003-04 and 2004-05 academic years. The board shall disperse grants in equal amounts to eligible post-secondary institutions so that state money in all cases supplements federal CAMP awards.

(5) \$111,628,000 of the general fund—state appropriation for fiscal year 2004 and \$120,420,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the state need grant program. After April 1 of each fiscal year, up to one percent of the annual appropriation for the state need grant program may be transferred to the state work study program.

(6) \$17,048,000 of the general fund—state appropriation for fiscal year 2004 and \$17,048,000 of the general fund—state appropriation for fiscal year

2005 are provided solely for the state work study program. After April 1 of each fiscal year, up to one percent of the annual appropriation for the state work study program may be transferred to the state need grant program. In addition to the administrative allowance in subsection (12) of this section, four percent of the general fund—state amount in this subsection may be expended for state work study program administration.

(7) \$2,867,000 of the general fund—state appropriation for fiscal year 2004 and \$2,867,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for educational opportunity grants pursuant to Chapter 233, Laws of 2003 (ESB 5676). The board may deposit sufficient funds from its appropriation into the state education trust fund as established in RCW 28B.10.821 to provide a one-year renewal of the grant for each new recipient of the educational opportunity grant award.

(8) \$1,919,000 of the general fund—state appropriation for fiscal year 2004 and \$2,155,000 of the general fund—state appropriation for fiscal year 2005 are provided solely to implement the Washington scholars program. Any Washington scholars program moneys not awarded by April 1st of each year may be transferred by the board to the Washington award for vocational excellence.

(9) \$794,000 of the general fund—state appropriation for fiscal year 2004 and \$845,000 of the general fund—state appropriation for fiscal year 2005 are provided solely to implement Washington award for vocational excellence program. Any Washington award for vocational program moneys not awarded by April 1st of each year may be transferred by the board to the Washington scholars program.

(10) \$246,000 of the general fund—state appropriation for fiscal year 2004 and \$246,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for community scholarship matching grants of \$2,000 each. To be eligible for the matching grant, a nonprofit community organization organized under section 501(c)(3) of the internal revenue code must demonstrate that it has raised \$2,000 in new moneys for college scholarships after the effective date of this act. An organization may receive more than one \$2,000 matching grant and preference shall be given to organizations affiliated with the citizens' scholarship foundation.

(11) Subject to state need grant service requirements pursuant to chapter 28B.119 RCW, \$6,050,000 of the general fund—state appropriation for fiscal year 2004 and \$6,050,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the Washington promise scholarship program.

(12) \$2,667,000 of the general fund—state appropriation for fiscal year 2004 and \$2,768,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for financial aid administration, in addition to the four percent cost allowance provision for state work study under subsection (6) of this section. These funds are provided to administer all the financial aid and grant programs assigned to the board by the legislature and administered by the agency. To the extent the executive director finds the agency will not require the full sum provided in this subsection, a portion may be transferred to supplement financial grants-in-aid to eligible clients after notifying the board and the office of financial management of the intended transfer.

(13) \$539,000 of the general fund—state appropriation for fiscal year 2004 and \$540,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the displaced homemakers program.

NEW SECTION. Sec. 612. FOR THE WORK FORCE TRAINING AND EDUCATION COORDINATING BOARD

General Fund—State Appropriation (FY 2004)	\$1,662,000
General Fund—State Appropriation (FY 2005)	\$1,620,000
General Fund—Federal Appropriation	\$53,790,000
TOTAL APPROPRIATION	\$57,072,000

The appropriations in this section are subject to the following conditions and limitations: \$485,000 of the general fund—state appropriation for fiscal year 2004 and \$485,000 of the general fund—state appropriation for fiscal year 2005 are provided solely for the operations and development of the inland northwest technology education center (INTEC) as a regional resource and model for the rapid deployment of skilled workers trained in the latest technologies for Washington. The board shall serve as an advisor to and fiscal agent for INTEC, and will report back to the governor and legislature by September 2004 as to the progress and future steps for INTEC as this public-private partnership evolves.

NEW SECTION. Sec. 613. FOR THE SPOKANE INTERCOLLEGIATE RESEARCH AND TECHNOLOGY INSTITUTE

General Fund—State Appropriation (FY 2004)	\$1,403,000
General Fund—State Appropriation (FY 2005)	\$1,419,000
TOTAL APPROPRIATION	\$2,822,000

NEW SECTION. Sec. 614. FOR THE WASHINGTON STATE ARTS COMMISSION

General Fund—State Appropriation (FY 2004)	\$2,247,000
General Fund—State Appropriation (FY 2005)	\$2,253,000
General Fund—Federal Appropriation	\$1,026,000
TOTAL APPROPRIATION	\$5,526,000

NEW SECTION. Sec. 615. FOR THE WASHINGTON STATE HISTORICAL SOCIETY

General Fund—State Appropriation (FY 2004)	\$2,400,000
General Fund—State Appropriation (FY 2005)	\$2,467,000
TOTAL APPROPRIATION	\$4,867,000

NEW SECTION. Sec. 616. FOR THE EASTERN WASHINGTON STATE HISTORICAL SOCIETY

General Fund—State Appropriation (FY 2004)	\$1,430,000
General Fund—State Appropriation (FY 2005)	\$1,461,000
TOTAL APPROPRIATION	\$2,891,000

NEW SECTION. Sec. 617. FOR THE STATE SCHOOL FOR THE BLIND

General Fund—State Appropriation (FY 2004)	\$4,614,000
General Fund—State Appropriation (FY 2005)	\$4,641,000
General Fund—Private/Local Appropriation	\$1,335,000
TOTAL APPROPRIATION	\$10,590,000

NEW SECTION. Sec. 618. FOR THE STATE SCHOOL FOR THE DEAF

General Fund—State Appropriation (FY 2004)	\$7,578,000
General Fund—State Appropriation (FY 2005)	\$7,559,000
General Fund—Private/Local Appropriation	\$232,000
TOTAL APPROPRIATION	\$15,369,000

**PART VII
SPECIAL APPROPRIATIONS**

NEW SECTION. Sec. 701. FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR DEBT SUBJECT TO THE DEBT LIMIT

General Fund—State Appropriation (FY 2004)	\$570,186,000
General Fund—State Appropriation (FY 2005)	\$626,814,000
Debt-Limit General Fund Bond Retirement Account—	
State Appropriation	\$10,000,000
State Building Construction Account—State	
Appropriation	\$7,014,000
Debt-Limit Reimbursable Bond Retirement Account—	
State Appropriation	\$2,587,000
State Taxable Building Construction Account—	
State Appropriation	\$322,000
TOTAL APPROPRIATION	\$1,216,923,000

The appropriations in this section are subject to the following conditions and limitations: The general fund appropriations are for deposit into the debt-limit general fund bond retirement account. The appropriation for fiscal year 2004 shall be deposited in the debt-limit general fund bond retirement account by June 30, 2004.

NEW SECTION. Sec. 702. FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR GENERAL OBLIGATION DEBT TO BE REIMBURSED BY ENTERPRISE ACTIVITIES

State Convention and Trade Center Account—	
State Appropriation	\$29,014,000
Accident Account—State Appropriation	\$5,113,000
Medical Aid Account—State Appropriation	\$5,113,000
TOTAL APPROPRIATION	\$39,240,000

NEW SECTION. Sec. 703. FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR GENERAL OBLIGATION DEBT TO BE REIMBURSED AS PRESCRIBED BY STATUTE

General Fund—State Appropriation (FY 2004)	\$26,394,000
General Fund—State Appropriation (FY 2005)	\$24,805,000
Capitol Historic District Construction	

Account—State Appropriation	\$299,000
Higher Education Construction Account—State Appropriation.	\$238,000
State Vehicle Parking Account—State Appropriation.	\$102,000
Nondebt-Limit Reimbursable Bond Retirement Account— State Appropriation	\$128,375,000
TOTAL APPROPRIATION	\$180,213,000

The appropriations in this section are subject to the following conditions and limitations: The general fund appropriation is for deposit into the nondebt-limit general fund bond retirement account.

NEW SECTION. Sec. 704. FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALE EXPENSES

General Fund—State Appropriation (FY 2004)	\$526,000
General Fund—State Appropriation (FY 2005)	\$526,000
Higher Education Construction Account—State Appropriation.	\$35,000
State Building Construction Account—State Appropriation.	\$2,032,000
State Vehicle Parking Account—State Appropriation.	\$17,000
Capitol Historic District Construction Account—State Appropriation	\$45,000
State Taxable Building Construction Account— State Appropriation	\$50,000
TOTAL APPROPRIATION	\$3,231,000

NEW SECTION. Sec. 705. FOR THE OFFICE OF FINANCIAL MANAGEMENT—FIRE CONTINGENCY POOL. The sum of \$4,000,000 is appropriated from the disaster response account for the purpose of making allocations to the Washington state patrol for fire mobilizations costs or to the department of natural resources for fire suppression costs.

NEW SECTION. Sec. 706. FOR THE OFFICE OF FINANCIAL MANAGEMENT—EMERGENCY FUND

General Fund—State Appropriation (FY 2004)	\$850,000
General Fund—State Appropriation (FY 2005)	\$850,000
TOTAL APPROPRIATION	\$1,700,000

The appropriations in this section are subject to the following conditions and limitations: The appropriations in this section are for the governor's emergency fund for the critically necessary work of any agency.

NEW SECTION. Sec. 707. FOR THE OFFICE OF FINANCIAL MANAGEMENT—EXTRAORDINARY CRIMINAL JUSTICE COSTS

Public Safety and Education Account—State Appropriation.	\$766,000
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The appropriation in this section is subject to the following conditions and limitations: The director of financial management shall distribute the entire appropriation to King county for extraordinary criminal justice costs.

NEW SECTION. Sec. 708. BELATED CLAIMS. The agencies and institutions of the state may expend moneys appropriated in this act, upon approval of the office of financial management, for the payment of supplies and services furnished to the agency or institution in prior fiscal biennia.

**NEW SECTION. Sec. 709. FOR THE GOVERNOR—
COMPENSATION—INSURANCE BENEFITS**

General Fund—State Appropriation (FY 2004)	\$8,243,000
General Fund—State Appropriation (FY 2005)	\$38,879,000
Dedicated Funds and Accounts Appropriation	\$41,232,000
TOTAL APPROPRIATION	\$88,354,000

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

(1) The appropriation from dedicated funds and accounts shall be made in the amounts specified and from the dedicated funds and accounts specified in LEAP document 2003-38, a computerized tabulation developed by the legislative evaluation and accountability program committee on June 2, 2003, which is hereby incorporated by reference. The office of financial management shall allocate the moneys appropriated in this section in the amounts specified and to the state agencies specified in LEAP document 2003-38, and adjust appropriation schedules accordingly.

(2)(a) The monthly employer funding rate for insurance benefit premiums, public employees' benefits board administration, and the uniform medical plan, shall not exceed \$504.89 per eligible employee for fiscal year 2004, and \$592.30 for fiscal year 2005.

(b) Within the rates in (a) of this subsection, \$4.13 per eligible employee shall be included in the employer funding rate for fiscal year 2004, and \$2.11 per eligible employee shall be included in the employer funding rate for fiscal year 2005, solely to increase life insurance coverage in accordance with a court approved settlement in *Burbage et al. v. State of Washington* (Thurston county superior court cause no. 94-2-02560-8).

(c) In order to achieve the level of funding provided for health benefits, the public employees' benefits board shall require any or all of the following: Employee premium copayments, increases in point-of-service cost sharing, the implementation of managed competition, or make other changes to benefits consistent with RCW 41.05.065.

(d) The health care authority shall deposit any moneys received on behalf of the uniform medical plan as a result of rebates on prescription drugs, audits of hospitals, subrogation payments, or any other moneys recovered as a result of prior uniform medical plan claims payments, into the public employees' and retirees' insurance account to be used for insurance benefits. Such receipts shall not be used for administrative expenditures.

(3) The health care authority, subject to the approval of the public employees' benefits board, shall provide subsidies for health benefit premiums to eligible retired or disabled public employees and school district employees who are eligible for parts A and B of medicare, pursuant to RCW 41.05.085. From

January 1, 2004, through December 31, 2004, the subsidy shall be \$102.35. Starting January 1, 2005, the subsidy shall be \$116.19 per month.

(4) Technical colleges, school districts, and educational service districts shall remit to the health care authority for deposit into the public employees' and retirees' insurance account established in RCW 41.05.120 the following amounts:

(a) For each full-time employee, \$42.76 per month beginning September 1, 2003, and \$49.14 beginning September 1, 2004;

(b) For each part-time employee who, at the time of the remittance, is employed in an eligible position as defined in RCW 41.32.010 or 41.40.010 and is eligible for employer fringe benefit contributions for basic benefits, \$42.76 each month beginning September 1, 2003, and \$49.14 beginning September 1, 2004, prorated by the proportion of employer fringe benefit contributions for a full-time employee that the part-time employee receives.

The remittance requirements specified in this subsection shall not apply to employees of a technical college, school district, or educational service district who purchase insurance benefits through contracts with the health care authority.

(5) The appropriations in this section include amounts sufficient to fund health benefits for ferry workers at the premium levels specified in subsection (2) of this section, consistent with the 2003-2005 transportation appropriations act.

NEW SECTION. Sec. 710. FOR THE DEPARTMENT OF RETIREMENT SYSTEMS—CONTRIBUTIONS TO RETIREMENT SYSTEMS. The appropriations in this section are subject to the following conditions and limitations: The appropriations for the law enforcement officers' and firefighters' retirement system shall be made on a monthly basis beginning July 1, 2003, consistent with chapter 41.45 RCW, and the appropriations for the judges and judicial retirement systems shall be made on a quarterly basis consistent with chapters 2.10 and 2.12 RCW.

(1) There is appropriated for state contributions to the law enforcement officers' and fire fighters' retirement system:

General Fund—State Appropriation (FY 2004)	\$21,256,000
General Fund—State Appropriation (FY 2005)	\$20,914,000

(2) There is appropriated for contributions to the judicial retirement system:

General Fund—State Appropriation (FY 2004)	\$6,000,000
General Fund—State Appropriation (FY 2005)	\$6,000,000

(3) There is appropriated for contributions to the judges retirement system:

General Fund—State Appropriation (FY 2004)	\$500,000
General Fund—State Appropriation (FY 2005)	\$500,000
TOTAL APPROPRIATION	\$55,170,000

NEW SECTION. Sec. 711. FOR THE OFFICE OF FINANCIAL MANAGEMENT—CONTRIBUTIONS TO RETIREMENT SYSTEMS

General Fund—State Appropriation (FY 2004)	\$578,000
General Fund—State Appropriation (FY 2005)	\$584,000
Public Safety and Education Account—State	

Appropriation	\$146,000
Judicial Information Systems Account—State	

Appropriation.....	\$57,000
Department of Retirement Systems Expense	
Account—State Appropriation	\$14,000
TOTAL APPROPRIATION	\$1,379,000

The appropriations in this section are subject to the following conditions and limitations: The appropriations in this section are provided solely to fund pension contributions to the public employees' retirement system and teachers' retirement system for judicial and legislative employees, effective July 1, 2003. The office of financial management shall update agency appropriation schedules to reflect the addition of the funding in this section, as identified by agency and fund in LEAP document 2003-39 dated June 3, 2003.

NEW SECTION. Sec. 712. FOR THE OFFICE OF FINANCIAL MANAGEMENT—EDUCATION TECHNOLOGY REVOLVING ACCOUNT

General Fund—State Appropriation (FY 2004)	\$10,468,000
General Fund—State Appropriation (FY 2005)	\$10,468,000
TOTAL APPROPRIATION	\$20,936,000

The appropriations in this section are subject to the following conditions and limitations: The appropriation in this section is for appropriation to the education technology revolving account for the purpose of covering operational and transport costs incurred by the K-20 educational network program in providing telecommunication services to network participants.

NEW SECTION. Sec. 713. INCENTIVE SAVINGS—FY 2004. The sum of one hundred million dollars or so much thereof as may be available on June 30, 2004, from the total amount of unspent fiscal year 2004 state general fund appropriations is appropriated for the purposes of RCW 43.79.460 in the manner provided in this section.

(1) Of the total appropriated amount, one-half of that portion that is attributable to incentive savings, not to exceed twenty-five million dollars, is appropriated to the savings incentive account for the purpose of improving the quality, efficiency, and effectiveness of agency services, and credited to the agency that generated the savings.

(2) The remainder of the total amount, not to exceed seventy-five million dollars, is appropriated to the education savings account.

(3) For purposes of this section, the total amount of unspent state general fund appropriations does not include the appropriations made in this section, in sections 715, 717, 718, and 724 of this act, or any amounts included in across-the-board allotment reductions under RCW 43.88.110.

NEW SECTION. Sec. 714. INCENTIVE SAVINGS—FY 2005. The sum of one hundred million dollars or so much thereof as may be available on June 30, 2005, from the total amount of unspent fiscal year 2005 state general fund appropriations is appropriated for the purposes of RCW 43.79.460 in the manner provided in this section.

(1) Of the total appropriated amount, one-half of that portion that is attributable to incentive savings, not to exceed twenty-five million dollars, is appropriated to the savings incentive account for the purpose of improving the

quality, efficiency, and effectiveness of agency services, and credited to the agency that generated the savings.

(2) The remainder of the total amount, not to exceed seventy-five million dollars, is appropriated to the education savings account.

(3) For purposes of this section, the total amount of unspent state general fund appropriations does not include the appropriations made in this section, in sections 715, 717, 718, and 724 of this act, or any amounts included in across-the-board allotment reductions under RCW 43.88.110.

NEW SECTION. Sec. 715. INCREASED FEDERAL ASSISTANCE.

(1) If the department of social and health services or the department of veterans affairs receives federal funding to enhance the federal medical assistance percentage for the 2001-2003 or 2003-2005 fiscal biennia as a result of the jobs and growth tax relief reconciliation act of 2003 (P.L. 108-27), the moneys shall be expended as an unanticipated receipt under RCW 43.79.270 and 43.79.280, subject to the following conditions and limitations:

(a) The moneys shall be expended in the manner required by the federal act;

(b) The federal moneys shall be expended in a manner that will maximize the conservation of state moneys, which shall be placed in reserve status and remain unexpended; and

(c) The director of financial management shall notify the appropriate legislative fiscal committees of proposed allotment modifications prior to expenditure of the federal moneys.

(2) If the state receives federal funding for the 2001-2003 or 2003-2005 fiscal biennia as a result of the jobs and growth tax relief reconciliation act of 2003 (P.L. 108-27) in addition to the funding described in subsection (1) of this section, the moneys may be expended as an unanticipated receipt under RCW 43.79.270 and 43.79.280, subject to the following conditions and limitations:

(a) The moneys shall be expended in the manner required by the federal act;

(b) The federal moneys shall be expended for necessary state services and in a manner that will maximize the conservation of state moneys, which shall be placed in reserve status and remain unexpended; and

(c) The director of financial management shall notify the appropriate legislative fiscal committees of proposed allotment modifications prior to expenditure of the federal moneys.

Sec. 716. 2003 c 10 s 708 (uncodified) is amended to read as follows:

INCENTIVE SAVINGS—FY 2003. The sum of one hundred million dollars or so much thereof as may be available on June 30, 2003, from the total amount of unspent fiscal year 2003 state general fund appropriations is appropriated for the purposes of RCW 43.79.460 in the manner provided in this section.

(1) Of the total appropriated amount, one-half of that portion that is attributable to incentive savings, not to exceed twenty-five million dollars, is appropriated to the savings incentive account for the purpose of improving the quality, efficiency, and effectiveness of agency services, and credited to the agency that generated the savings.

(2) Of the total appropriated amount, any amount attributable to unspent general fund—state appropriations in the state need grant program, the state work study program, the Washington scholars program, and the Washington

award for vocational excellence program is appropriated to the state financial aid account pursuant to Substitute House Bill No. 2914 (state financial aid account).

(3) The remainder of the total amount, not to exceed seventy-five million dollars, is appropriated to the education savings account.

(4) For purposes of this section, the total amount of unspent state general fund appropriations does not include the appropriations made in this section, amounts included in allotment reductions in sections 706, 707, 708, and 713 of ~~((this act and section 706 of this act))~~ chapter 371, Laws of 2002 and section 715 of this act, or any amounts included in across-the-board allotment reductions under RCW 43.88.110.

***NEW SECTION. Sec. 717. AGENCY EXPENDITURES FOR TRAVEL, EQUIPMENT, AND PERSONAL SERVICE CONTRACTS.** *The office of financial management shall reduce allotments for all agencies for personal service contracts, equipment, and travel by \$20,000,000 from 2003-05 biennial general fund appropriations in this act to reflect the elimination of expenditures identified in LEAP document 2003-36, a computerized tabulation developed by the legislative evaluation and accountability program committee on April 25, 2003. The general fund allotment reduction shall be placed in unallotted status and remain unexpended.*

*Sec. 717 was vetoed. See message at end of chapter.

NEW SECTION. Sec. 718. AGENCY EXPENDITURES FOR TORT LIABILITY. The office of financial management shall reduce allotments for all agencies by \$10,638,000 from 2003-05 biennial general fund appropriations in this act to reflect the reduction in contributions to the liability account. The general fund allotment reduction shall be placed in unallotted status and remain unexpended.

NEW SECTION. Sec. 719. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT— COUNTY PUBLIC HEALTH ASSISTANCE

Health Services Account—State Appropriation \$48,000,000

The appropriation in this section is subject to the following conditions and limitations: The director of the department of community, trade, and economic development shall distribute the appropriations to the following counties and health districts in the amounts designated:

Health District	FY 2004	FY 2005	FY 2003-05 Biennium
Adams County Health District	\$30,951	\$30,951	\$61,902
Asotin County Health District	\$67,714	\$67,714	\$135,428
Benton-Franklin Health District	\$1,165,612	\$1,165,612	\$2,331,224
Chelan-Douglas Health District	\$184,761	\$184,761	\$369,522
Clallam County Health and Human Services Department	\$141,752	\$141,752	\$283,504
Southwest Washington Health District	\$1,084,473	\$1,084,473	\$2,168,946

Columbia County Health District	\$40,529	\$40,529	\$81,058
Cowlitz County Health Department	\$278,560	\$278,560	\$557,120
Garfield County Health District	\$15,028	\$15,028	\$30,056
Grant County Health District	\$118,595	\$118,595	\$237,191
Grays Harbor Health Department	\$183,870	183,870	\$367,740
Island County Health Department	\$91,892	\$91,892	\$183,784
Jefferson County Health and Human Services	\$85,782	\$85,782	\$171,564
Seattle-King County Department of Public Health	\$9,531,747	\$9,531,747	\$19,063,494
Bremerton-Kitsap County Health District	\$554,669	\$554,669	\$1,109,338
Kittitas County Health Department	\$92,499	\$92,499	\$184,998
Klickitat County Health Department	\$62,402	\$62,402	\$124,804
Lewis County Health Department	\$105,801	\$105,801	\$211,602
Lincoln County Health Department	\$29,705	\$29,705	\$59,410
Mason County Department of Health Services	\$95,988	\$95,988	\$191,976
Okanogan County Health District	\$63,458	\$63,458	\$126,916
Pacific County Health Department	\$77,427	\$77,427	\$154,854
Tacoma-Pierce County Health Department	\$2,820,590	\$2,820,590	\$5,641,180
San Juan County Health and Community Services	\$37,531	\$37,531	\$75,062
Skagit County Health Department	\$223,927	\$223,927	\$447,854
Snohomish Health District	\$2,258,207	\$2,258,207	\$4,516,414
Spokane County Health District	\$2,101,429	\$2,101,429	\$4,202,858
Northeast Tri-County Health District	\$110,454	\$110,454	\$220,908

Thurston County Health Department	\$600,419	\$600,419	\$1,200,838
Wahkiakum County Health Department	\$13,773	\$13,772	\$27,545
Walla Walla County-City Health Department	\$172,062	\$172,062	\$344,124
Whatcom County Health Department	\$855,863	\$855,863	\$1,711,726
Whitman County Health Department	\$78,733	\$78,733	\$157,466
Yakima Health District	\$623,797	\$623,797	\$1,247,594
TOTAL APPROPRIATIONS	\$24,000,000	\$24,000,000	\$48,000,000

NEW SECTION. Sec. 720. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT—COUNTY ASSISTANCE

General Fund—Federal Appropriation \$5,000,000

The appropriations in this section are subject to the following conditions and limitations: The director of community, trade, and economic development shall distribute the appropriations in this section to the following counties in the amounts designated:

	FY 2004
Adams	\$334,400
Asotin	\$361,900
Columbia	\$679,700
Douglas	\$264,000
Ferry	\$283,600
Garfield	\$759,800
Island	\$66,400
Lincoln	\$297,700
Mason	\$298,000
Okanogan	\$280,000
Pacific	\$89,700
Pend Oreille	\$181,600
Skamania	\$88,000
Stevens	\$418,000
Wahkiakum	\$452,900
Walla Walla	\$144,300
TOTAL APPROPRIATIONS	\$5,000,000

NEW SECTION. Sec. 721. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT—MUNICIPAL ASSISTANCE

General Fund—Federal Appropriation \$5,000,000

The appropriation in this section is subject to the following conditions and limitations: The director of community, trade, and economic development shall distribute the appropriation in this section to the following cities in the amounts designated:

	FY 2004	FY 2005	2003-05 Biennium
Airway Heights	\$3,900	\$2,600	\$6,500
Albion	\$20,500	\$13,700	\$34,200
Almira	\$600	\$400	\$1,000
Asotin	\$8,400	\$5,600	\$14,000
Benton City	\$13,200	\$8,800	\$22,000
Black Diamond	\$15,600	\$10,400	\$2,600
Bridgeport	\$58,100	\$38,700	\$96,800
Brier	\$110,200	\$73,500	\$183,700
Bucoda	\$12,800	\$8,500	\$21,300
Carbonado	\$12,600	\$8,400	\$21,000
Cashmere	\$11,000	\$7,300	\$18,300
Cheney	\$16,400	\$10,900	\$27,300
Chewelah	\$1,100	\$600	\$1,700
Colfax	\$800	\$500	\$1,300
College Place	\$117,800	\$78,500	\$196,300
Colton	\$4,600	\$3,100	\$7,700
Conconully	\$3,300	\$2,200	\$5,500
Concrete	\$900	\$600	\$1,500
Connell	\$23,300	\$15,500	\$38,800
Coulee Dam	\$4,700	\$3,100	\$7,800
Covington	\$100,300	\$66,900	\$167,200
Creston	\$1,600	\$1,100	\$2,700
Cusick	\$600	\$400	\$1,000
Darrington	\$4,800	\$3,200	\$8,000
Davenport	\$3,800	\$2,500	\$6,300
Dayton	\$1,200	\$800	\$2,000
Des Moines	\$137,500	\$91,700	\$229,200
Edgewood	\$233,300	\$155,500	\$388,800

Electric City	\$22,800	\$15,200	\$38,000
Elma	\$1,600	\$1,100	\$2,700
Elmer City	\$9,200	\$6,100	\$15,300
Endicott	\$8,900	\$5,900	\$14,800
Entiat	\$8,700	\$5,800	\$14,500
Everson	\$4,000	\$2,700	\$6,700
Fairfield	\$1,100	\$600	\$1,700
Farmington	\$2,400	\$1,600	\$4,000
Fircrest	\$42,700	\$28,500	\$71,200
Forks	\$4,200	\$2,800	\$7,000
Garfield	\$10,600	\$7,100	\$17,700
George	\$1,900	\$1,300	\$3,200
Gold Bar	\$24,700	\$16,500	\$41,200
Grandview	\$13,100	\$8,700	\$21,800
Granger	\$24,200	\$16,100	\$40,300
Hamilton	\$3,400	\$2,300	\$5,700
Harrah	\$13,500	\$9,000	\$22,500
Harrington	\$700	\$500	\$1,200
Hartline	\$2,800	\$1,900	\$4,700
Hatton	\$3,800	\$2,500	\$4,700
Hoquiam	\$16,600	\$11,100	\$27,700
Index	\$600	\$400	\$1,000
Ione	\$1,500	\$1,000	\$2,500
Kahlotus	\$4,900	\$3,300	\$8,200
Kenmore	\$113,000	\$75,300	\$188,300
Kettle Falls	\$3,200	\$2,100	\$5,300
Kittitas	\$14,200	\$9,500	\$23,700
Krupp	\$700	\$500	\$1,200
Lacrosse	\$2,200	\$1,500	\$3,700
Lake Forest Park	\$116,600	\$77,700	\$194,300
Lake Stevens	\$3,900	\$2,600	\$6,500
Lakewood	\$303,100	\$202,100	\$505,200
Lamont	\$2,100	\$1,400	\$3,500
Latah	\$2,200	\$1,500	\$3,700
Lyman	\$3,000	\$2,000	\$5,000
Mabton	\$44,000	\$29,300	\$73,300
Malden	\$6,700	\$4,500	\$11,200

Mansfield	\$6,900	\$4,600	\$11,500
Maple Valley	\$14,200	\$9,500	\$23,700
Marcus	\$3,000	\$2,000	\$5,000
Mattawa	\$14,500	\$9,700	\$24,200
McCleary	\$12,500	\$8,300	\$20,800
Medical Lake	\$8,200	\$5,500	\$13,700
Mesa	\$1,400	\$900	\$2,300
Metaline	\$1,800	\$1,200	\$3,000
Metaline Falls	\$800	\$500	\$1,300
Mossyrock	\$600	\$400	\$1,000
Mountlake Terrace	\$27,000	\$18,000	\$45,000
Moxee	\$1,900	\$1,300	\$3,200
Napavine	\$16,700	\$11,100	\$27,800
Nespelem	\$5,400	\$3,600	\$9,000
Newcastle	\$1,400	\$900	\$2,300
Nooksack	\$10,900	\$7,300	\$18,200
Normandy Park	\$70,200	\$46,800	\$117,000
North Bonneville	\$1,500	\$1,000	\$2,500
Northport	\$5,900	\$3,900	\$9,800
Oakesdale	\$2,500	\$1,700	\$4,200
Oakville	\$5,900	\$3,900	\$9,800
Orting	\$10,300	\$6,900	\$17,200
Palouse	\$6,300	\$4,200	\$10,500
Pateros	\$600	\$400	\$1,000
Pe Ell	\$16,900	\$11,300	\$28,200
Pomeroy	\$2,100	\$1,400	\$3,500
Prescott	\$1,100	\$600	\$1,700
Pullman	\$18,200	\$12,100	\$30,300
Rainier	\$22,900	\$15,300	\$38,200
Raymond	\$600	\$400	\$1,000
Reardan	\$7,200	\$4,800	\$12,000
Republic	\$900	\$600	\$1,500
Riverside	\$6,000	\$4,000	\$10,000
Rock Island	\$4,900	\$3,300	\$8,200
Rockford	\$1,400	\$900	\$2,300
Rosalia	\$5,500	\$3,700	\$9,200
Roslyn	\$9,700	\$6,500	\$16,200

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Royal City	\$10,300	\$6,900	\$17,200
Ruston	\$6,700	\$4,500	\$11,200
Sammamish	\$276,900	\$184,600	\$461,500
Shoreline	\$55,400	\$36,900	\$92,300
Soap Lake	\$16,300	\$10,900	\$27,200
South Bend	\$4,600	\$3,100	\$7,700
South Cle Elum	\$9,200	\$6,100	\$15,300
South Prairie	\$1,500	\$1,000	\$2,500
Sprague	\$1,100	\$700	\$1,800
Springdale	\$600	\$400	\$1,000
Starbuck	\$2,300	\$1,500	\$3,800
Steilacoom	\$16,400	\$10,900	\$27,300
Tekoa	\$4,100	\$2,700	\$6,800
Tenino	\$5,800	\$3,900	\$9,700
Tieton	\$10,400	\$6,900	\$17,300
Toppenish	\$53,600	\$35,700	\$89,300
Uniontown	\$2,500	\$1,700	\$4,200
University Place	\$262,300	\$174,900	\$437,200
Vader	\$10,600	\$7,100	\$17,700
Waitsburg	\$13,000	\$8,700	\$21,700
Wapato	\$30,100	\$20,100	\$50,200
Warden	\$8,200	\$5,500	\$13,700
Washtucna	\$6,400	\$4,300	\$10,700
Waterville	\$10,800	\$7,200	\$18,000
Waverly	\$3,000	\$2,000	\$5,000
West Richland	\$71,700	\$47,800	\$119,500
White Salmon	\$900	\$600	\$1,500
Wilbur	\$600	\$400	\$1,000
Wilkeson	\$600	\$400	\$1,000
Wilson Creek	\$2,900	\$1,900	\$4,800
Yacolt	\$3,100	\$2,100	\$5,200
Zillah	\$4,600	\$3,100	\$7,700
TOTAL APPROPRIATIONS	\$3,000,000	\$2,000,000	\$5,000,000

NEW SECTION. Sec. 722. FOR THE OFFICE OF FINANCIAL MANAGEMENT—HIGHER EDUCATION ENROLLMENT.

General Fund—State Appropriation (FY 2004) \$3,125,000

General Fund—State Appropriation (FY 2005)	\$3,126,000
TOTAL APPROPRIATION	\$6,251,000

The appropriations in this section are subject to the following conditions and limitation: \$3,125,000 of the general fund—state for fiscal year 2004 and \$3,126,000 of the general fund—state for fiscal year 2005 are provided solely for allocation to public baccalaureate institutions to expand state-supported college access by 400 full-time equivalent student enrollments with junior class standing over levels in the 2002-03 academic year. With these amounts, the legislature intends to assist qualified residents seeking to transfer with an associate degree or credits sufficient to enter degree programs with junior-class standing. Any institution receiving an allocation for instruction shall provide data as required by the forecast division of the office of financial management to establish a baseline and monitor change in state-supported enrollment. This data will also be provided to the state board for community and technical colleges, the higher education coordinating board, and the higher education policy and fiscal legislative committees to demonstrate the impact of this section.

NEW SECTION. Sec. 723. FOR SUNDRY CLAIMS. The following sums, or so much thereof as may be necessary, are appropriated from the general fund, unless otherwise indicated, for relief of various individuals, firms, and corporations for sundry claims. These appropriations are to be disbursed on vouchers approved by the director of general administration, except as otherwise provided, as follows:

- (1) Reimbursement of criminal defendants acquitted on the basis of self-defense, pursuant to RCW 9A.16.110: Kelly C. Schwartz, claim number SCJ 03-10 \$18,250
- (2) Payment from the state wildlife account for damage to crops by wildlife, pursuant to RCW 77.36.050:
 - (a) Circle S Landscape Supplies, claim number SCG 03-05 \$49,380
 - (b) Marilyn Lund Farms, claim number SCG 03-08 \$17,175
 - (c) Paul Gibbons, claim number SCG 03-09 \$12,414
 - (d) Bud Hamilton, claim number SCG 03-10 \$15,591
 - (e) Richard Anderson, claim number SCG 03-11 \$75,933
 - (f) Neil Ice, claim number SCG 03-12 \$73,474
 - (g) Carl Anderson, claim number SCG 03-13 \$120,943

***NEW SECTION. Sec. 724. AGENCY EXPENDITURES FOR LEGISLATIVE LIAISONS.** *During the 2003-05 fiscal biennium, no state agency or institution may expend any moneys appropriated in this act to employ legislative liaisons or contract for legislative liaisons. However, each independently elected statewide official may employ one FTE legislative liaison during the 2003-05 fiscal biennium. The office of financial management shall reduce allotments for agencies by \$3,257,000 from 2003-05 biennial general fund appropriations in this act to reflect the elimination of the expenditures identified in LEAP document 34, a computerized tabulation developed by the legislative evaluation and accountability program committee on April 3, 2003. The general fund allotment reduction shall be placed in unallotted status and remain unexpended.*

State funds provided in Part V of this act may not be expended by or for any organization, association, or other entity to influence the passage or defeat of any legislation by the legislature of the state of Washington.

*Sec. 724 was vetoed. See message at end of chapter.

NEW SECTION. Sec. 725. 2003 c 360 s 408 (uncodified) is repealed.

NEW SECTION. Sec. 726. A new section is added to 2003 c 360 (uncodified) to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT—
CONTRIBUTIONS TO RETIREMENT SYSTEMS.**

Aeronautics Account—State Appropriation	(\$8,000)
State Patrol Highway Account—State Appropriation	(\$443,000)
State Patrol Highway Account—Federal Appropriation	(\$16,000)
State Patrol Highway Account—Local Appropriation	(\$6,000)
Motorcycle Safety Education Account—State Appropriation	(\$2,000)
Rural Arterial Trust Account—State Appropriation	(\$4,000)
Wildlife Account—State Appropriation	(\$2,000)
Highway Safety Account—State Appropriation	(\$461,000)
Highway Safety Account—Federal Appropriation	(\$14,000)
Motor Vehicle Account—State Appropriation	(\$2,305,000)
Puget Sound Ferry Operations Account—State Appropriation	(\$1,414,000)
Urban Arterial Trust Account—State Appropriation	(\$10,000)
Transportation Improvement Account—State Appropriation	(\$10,000)
County Arterial Preservation Account—State Appropriation	(\$4,000)
Department of Licensing Services Account—State Appropriation	(\$2,000)
Multi-Modal Transportation Account—State Appropriation	(\$154,000)
TOTAL APPROPRIATION	(\$4,855,000)

The office of financial management shall update agency appropriation schedules to reflect the addition of the funding in this section, as identified by agency and fund in LEAP document 2003-37 dated May 27, 2003. The appropriations in this section are provided solely for funding agency pension changes as set forth in Senate Bill No. 6029 or House Bill No. 2254.

**PART VIII
OTHER TRANSFERS AND APPROPRIATIONS**

**NEW SECTION. Sec. 801. FOR THE STATE TREASURER—STATE
REVENUES FOR DISTRIBUTION**

General Fund Appropriation for fire insurance premium distributions	\$4,711,500
General Fund Appropriation for public utility district excise tax distributions	\$39,273,684
General Fund Appropriation for prosecuting	

attorney distributions	\$3,441,197
General Fund Appropriation for boating safety and education distributions	\$4,074,300
General Fund Appropriation for other tax distributions	\$34,750
Death Investigations Account Appropriation for distribution to counties for publicly funded autopsies	\$2,123,723
Aquatic Lands Enhancement Account Appropriation for harbor improvement revenue distribution	\$187,068
Timber Tax Distribution Account Appropriation for distribution to "timber" counties	\$51,192,170
County Criminal Justice Assistance Appropriation	\$52,131,000
Municipal Criminal Justice Assistance Appropriation	\$21,069,000
Liquor Excise Tax Account Appropriation for liquor excise tax distribution	\$32,624,831
Liquor Revolving Account Appropriation for liquor profits distribution	\$57,511,693
TOTAL APPROPRIATION	\$268,374,916

The total expenditures from the state treasury under the appropriations in this section shall not exceed the funds available under statutory distributions for the stated purposes.

NEW SECTION. Sec. 802. FOR THE STATE TREASURER—FOR THE COUNTY CRIMINAL JUSTICE ASSISTANCE ACCOUNT

Impaired Driving Safety Account Appropriation \$1,896,502

The appropriation in this section is subject to the following conditions and limitations: The amount appropriated in this section shall be distributed quarterly during the 2003-05 biennium in accordance with RCW 82.14.310. This funding is provided to counties for the costs of implementing criminal justice legislation including, but not limited to: Chapter 206, Laws of 1998 (drunk driving penalties); chapter 207, Laws of 1998 (DUI penalties); chapter 208, Laws of 1998 (deferred prosecution); chapter 209, Laws of 1998 (DUI/license suspension); chapter 210, Laws of 1998 (ignition interlock violations); chapter 211, Laws of 1998 (DUI penalties); chapter 212, Laws of 1998 (DUI penalties); chapter 213, Laws of 1998 (intoxication levels lowered); chapter 214, Laws of 1998 (DUI penalties); and chapter 215, Laws of 1998 (DUI provisions).

NEW SECTION. Sec. 803. FOR THE STATE TREASURER—FOR THE MUNICIPAL CRIMINAL JUSTICE ASSISTANCE ACCOUNT

Impaired Driving Safety Account Appropriation \$1,264,335

The appropriation in this section is subject to the following conditions and limitations: The amount appropriated in this section shall be distributed quarterly during the 2003-05 biennium to all cities ratably based on population as last determined by the office of financial management. The distributions to any city that substantially decriminalizes or repeals its criminal code after July 1,

1990, and that does not reimburse the county for costs associated with criminal cases under RCW 3.50.800 or 3.50.805(2), shall be made to the county in which the city is located. This funding is provided to cities for the costs of implementing criminal justice legislation including, but not limited to: Chapter 206, Laws of 1998 (drunk driving penalties); chapter 207, Laws of 1998 (DUI penalties); chapter 208, Laws of 1998 (deferred prosecution); chapter 209, Laws of 1998 (DUI/license suspension); chapter 210, Laws of 1998 (ignition interlock violations); chapter 211, Laws of 1998 (DUI penalties); chapter 212, Laws of 1998 (DUI penalties); chapter 213, Laws of 1998 (intoxication levels lowered); chapter 214, Laws of 1998 (DUI penalties); and chapter 215, Laws of 1998 (DUI provisions).

**NEW SECTION. Sec. 804. FOR THE STATE TREASURER—
FEDERAL REVENUES FOR DISTRIBUTION**

General Fund Appropriation for federal grazing fees distribution	\$1,293,828
General Fund Appropriation for federal flood control funds distribution	\$25,050
Forest Reserve Fund Appropriation for federal forest reserve fund distribution	\$83,492,373
TOTAL APPROPRIATION	\$84,811,251

The total expenditures from the state treasury under the appropriations in this section shall not exceed the funds available under statutory distributions for the stated purposes.

**NEW SECTION. Sec. 805. FOR THE STATE TREASURER—
TRANSFERS**

For transfers in this section to the state general fund, pursuant to RCW 43.135.035(5), the state expenditure limit shall be increased by the amount of the transfer. The increase shall occur in the fiscal year in which the transfer occurs.

State Convention and Trade Center Account:	
For transfer to the state general fund	\$10,000,000
County Sale/Use Tax Equalization Account:	
For transfer to the state general fund for fiscal year 2004	\$74,000
Financial Services Regulation Fund: For transfer to the state general fund at the beginning of fiscal year 2005	\$1,632,000
Municipal Sale/Use Tax Equalization Account:	
For transfer to the state general fund for fiscal year 2004	\$374,000
Asbestos Account: For transfer to the state general fund	\$200,000
Electrical License Account: For transfer to the state general fund	\$7,000,000
Local Toxics Control Account: For transfer to the state toxics control account	\$4,059,000
Pressure Systems Safety Account: For transfer to the state general fund	\$1,000,000

Health Services Account: For transfer to the water quality account	\$8,182,000
State Treasurer's Service Account: For transfer to the general fund	\$10,000,000
Public Works Assistance Account: For transfer to the drinking water assistance account	\$8,387,000
Tobacco Settlement Account: For transfer to the health services account, in an amount not to exceed the actual balance of the tobacco settlement account	\$185,000,000
Health Service Account: For transfer to the violence reduction and drug enforcement account	\$7,789,000
Nisqually Earthquake Account: For transfer to the disaster response account.	\$6,200,000
Industrial Insurance Premium Refund Account: For transfer to the state general fund	\$577,000
Public Service Revolving Account: For transfer to the state general fund	\$1,600,000
State Forest Nursery Revolving Account: For transfer to the state general fund, \$250,000 for fiscal year 2004 and \$250,000 for fiscal year 2005	\$500,000
Flood Control Assistance Account: For transfer to the state general fund, \$1,350,000 for fiscal year 2004 and \$1,350,000 for fiscal year 2005	\$2,700,000
Water Quality Account: For transfer to the water pollution control account	\$10,500,000
General Fund: For transfer to the water quality account, \$3,870,000 for fiscal year 2004 and \$4,557,000 for fiscal year 2005	\$8,427,000
Insurance Commissioner's Regulatory Account: For transfer to the state general fund	\$1,500,000
Health Services Account: For transfer to the tobacco prevention and control account	\$24,216,000
From the Emergency Reserve Fund: For transfer to the state general fund, not to exceed the actual balance of the emergency reserve fund. This transfer is intended to liquidate the emergency reserve fund.	\$59,350,000
Department of Retirement Systems Expense Account: For transfer to the state general fund	\$1,500,000
Woodstove Education and Enforcement Account: For transfer to the air pollution control account	\$600,000
Multimodal Transportation Account: For transfer to the air pollution control account for fiscal year 2004. The amount transferred shall be deposited into the segregated	

subaccount of the air pollution control account created in Engrossed Substitute Senate Bill No. 6072, chapter 264, Laws of 2003. The state treasurer shall perform the transfer from the multimodal transportation account to the air pollution control subaccount on a quarterly basis \$4,170,726

Multimodal Transportation Account: For transfer to the vessel response account for fiscal year 2004 \$1,213,704

Resource Management Cost Account: For transfer to the contract harvesting revolving account. \$250,000

Forest Development Account: For transfer to the contract harvesting revolving account. \$250,000

Site Closure Account: For transfer to the state general fund. \$13,800,000

Health Services Account: For transfer to the general fund—state for fiscal year 2005 \$1,250,000

NEW SECTION. Sec. 806. FOR THE DEPARTMENT OF RETIREMENT SYSTEMS—TRANSFERS

General Fund—State Appropriation: For transfer to the department of retirement systems expense account: For the administrative expenses of the judicial retirement system. \$21,901

**PART IX
MISCELLANEOUS**

NEW SECTION. Sec. 901. EXPENDITURE AUTHORIZATIONS.

The appropriations contained in this act are maximum expenditure authorizations. Pursuant to RCW 43.88.037, moneys disbursed from the treasury on the basis of a formal loan agreement shall be recorded as loans receivable and not as expenditures for accounting purposes. To the extent that moneys are disbursed on a loan basis, the corresponding appropriation shall be reduced by the amount of loan moneys disbursed from the treasury during the 2001-03 biennium.

NEW SECTION. Sec. 902. INFORMATION SYSTEMS PROJECTS.

Agencies shall comply with the following requirements regarding information systems projects when specifically directed to do so by this act.

(1) Agency planning and decisions concerning information technology shall be made in the context of its information technology portfolio. "Information technology portfolio" means a strategic management approach in which the relationships between agency missions and information technology investments can be seen and understood, such that: Technology efforts are linked to agency objectives and business plans; the impact of new investments on existing infrastructure and business functions are assessed and understood before implementation; and agency activities are consistent with the development of an integrated, nonduplicative statewide infrastructure.

(2) Agencies shall use their information technology portfolios in making decisions on matters related to the following:

- (a) System refurbishment, acquisitions, and development efforts;
- (b) Setting goals and objectives for using information technology in meeting legislatively-mandated missions and business needs;
- (c) Assessment of overall information processing performance, resources, and capabilities;
- (d) Ensuring appropriate transfer of technological expertise for the operation of any new systems developed using external resources; and
- (e) Progress toward enabling electronic access to public information.

(3) Each project will be planned and designed to take optimal advantage of Internet technologies and protocols. Agencies shall ensure that the project is in compliance with the architecture, infrastructure, principles, policies, and standards of digital government as maintained by the information services board.

(4) The agency shall produce a feasibility study for information technology projects at the direction of the information services board and in accordance with published department of information services policies and guidelines. At a minimum, such studies shall include a statement of: (a) The purpose or impetus for change; (b) the business value to the agency, including an examination and evaluation of benefits, advantages, and cost; (c) a comprehensive risk assessment based on the proposed project's impact on both citizens and state operations, its visibility, and the consequences of doing nothing; (d) the impact on agency and statewide information infrastructure; and (e) the impact of the proposed enhancements to an agency's information technology capabilities on meeting service delivery demands.

(5) The agency shall produce a comprehensive management plan for each project. The plan or plans shall address all factors critical to successful completion of each project. The plan(s) shall include, but is not limited to, the following elements: A description of the problem or opportunity that the information technology project is intended to address; a statement of project objectives and assumptions; a definition and schedule of phases, tasks, and activities to be accomplished; and the estimated cost of each phase. The planning for the phased approach shall be such that the business case justification for a project needs to demonstrate how the project recovers cost or adds measurable value or positive cost benefit to the agency's business functions within each development cycle.

(6) The agency shall produce quality assurance plans for information technology projects. Consistent with the direction of the information services board and the published policies and guidelines of the department of information services, the quality assurance plan shall address all factors critical to successful completion of the project and successful integration with the agency and state information technology infrastructure. At a minimum, quality assurance plans shall provide time and budget benchmarks against which project progress can be measured, a specification of quality assurance responsibilities, and a statement of reporting requirements. The quality assurance plans shall set out the functionality requirements for each phase of a project.

(7) A copy of each feasibility study, project management plan, and quality assurance plan shall be provided to the department of information services, the office of financial management, and legislative fiscal committees. The plans and

studies shall demonstrate a sound business case that justifies the investment of taxpayer funds on any new project, an assessment of the impact of the proposed system on the existing information technology infrastructure, the disciplined use of preventative measures to mitigate risk, and the leveraging of private-sector expertise as needed. Authority to expend any funds for individual information systems projects is conditioned on the approval of the relevant feasibility study, project management plan, and quality assurance plan by the department of information services and the office of financial management.

(8) Quality assurance status reports shall be submitted to the department of information services, the office of financial management, and legislative fiscal committees at intervals specified in the project's quality assurance plan.

NEW SECTION. Sec. 903. VIDEO TELECOMMUNICATIONS. The department of information services shall act as lead agency in coordinating video telecommunications services for state agencies. As lead agency, the department shall develop standards and common specifications for leased and purchased telecommunications equipment and assist state agencies in developing a video telecommunications expenditure plan. No agency may spend any portion of any appropriation in this act for new video telecommunication equipment, new video telecommunication transmission, or new video telecommunication programming, or for expanding current video telecommunication systems without first complying with chapter 43.105 RCW, including but not limited to, RCW 43.105.041(2), and without first submitting a video telecommunications expenditure plan, in accordance with the policies of the department of information services, for review and assessment by the department of information services under RCW 43.105.052. Prior to any such expenditure by a public school, a video telecommunications expenditure plan shall be approved by the superintendent of public instruction. The office of the superintendent of public instruction shall submit the plans to the department of information services in a form prescribed by the department. The office of the superintendent of public instruction shall coordinate the use of video telecommunications in public schools by providing educational information to local school districts and shall assist local school districts and educational service districts in telecommunications planning and curriculum development. Prior to any such expenditure by a public institution of postsecondary education, a telecommunications expenditure plan shall be approved by the higher education coordinating board. The higher education coordinating board shall coordinate the use of video telecommunications for instruction and instructional support in postsecondary education, including the review and approval of instructional telecommunications course offerings.

NEW SECTION. Sec. 904. PROGRAM COST SHIFTS. Any program costs or moneys in this act that are shifted to the general fund from another fund or account require an adjustment to the expenditure limit under RCW 43.135.035(5).

NEW SECTION. Sec. 905. EMERGENCY FUND ALLOCATIONS. Whenever allocations are made from the governor's emergency fund appropriation to an agency that is financed in whole or in part by other than general fund moneys, the director of financial management may direct the repayment of such allocated amount to the general fund from any balance in the

fund or funds which finance the agency. No appropriation shall be necessary to effect such repayment.

NEW SECTION. Sec. 906. STATUTORY APPROPRIATIONS. In addition to the amounts appropriated in this act for revenues for distribution, state contributions to the law enforcement officers' and fire fighters' retirement system plan 2, and bond retirement and interest including ongoing bond registration and transfer charges, transfers, interest on registered warrants, and certificates of indebtedness, there is also appropriated such further amounts as may be required or available for these purposes under any statutory formula or under chapters 39.94 and 39.96 RCW or any proper bond covenant made under law.

NEW SECTION. Sec. 907. BOND EXPENSES. In addition to such other appropriations as are made by this act, there is hereby appropriated to the state finance committee from legally available bond proceeds in the applicable construction or building funds and accounts such amounts as are necessary to pay the expenses incurred in the issuance and sale of the subject bonds.

NEW SECTION. Sec. 908. VOLUNTARY SEPARATION INCENTIVES. As a management tool to reduce costs and make more effective use of resources, while improving employee productivity and morale, agencies may offer voluntary separation and/or downshifting incentives and options according to procedures and guidelines established by the department of personnel and the department of retirement systems in consultation with the office of financial management. The options may include, but are not limited to, financial incentives for: Voluntary resignation and retirement, voluntary leave-without-pay, voluntary workweek or work hour reduction, voluntary downward movement, or temporary separation for development purposes. No employee shall have a contractual right to a financial incentive offered pursuant to this section.

Agencies shall report on the outcomes of their plans, and offers shall be reviewed and monitored jointly by the department of personnel and the department of retirement systems, for reporting to the office of financial management by December 1, 2004.

NEW SECTION. Sec. 909. VOLUNTARY RETIREMENT INCENTIVES. It is the intent of the legislature that agencies may implement a voluntary retirement incentive program that is cost neutral or results in cost savings provided that such a program is approved by the director of retirement systems and the office of financial management. Agencies participating in this authorization are required to submit a report by June 30, 2005, to the legislature and the office of financial management on the outcome of their approved retirement incentive program. The report should include information on the details of the program including resulting service delivery changes, agency efficiencies, the cost of the retirement incentive per participant, the total cost to the state, and the projected or actual net dollar savings over the 2003-05 biennium.

Sec. 910. RCW 19.28.351 and 1988 c 81 s 11 are each amended to read as follows:

All sums received from licenses, permit fees, or other sources, herein shall be paid to the state treasurer and placed in a special fund designated as the

"electrical license fund," and ~~((by him))~~ paid out upon vouchers duly and regularly issued therefor and approved by the director of labor and industries or the director's designee following determination by the board that the sums are necessary to accomplish the intent of chapter 19.28 RCW. The treasurer shall keep an accurate record of payments into, or receipts of, ~~((said))~~ the fund, and of all disbursements therefrom.

During the 2003-2005 biennium, the legislature may transfer moneys from the electrical license fund to the state general fund such amounts as reflect the excess fund balance of the fund.

Sec. 911. RCW 28A.305.210 and 1975 1st ex.s. c 275 s 51 are each amended to read as follows:

(1) The state board of education, by rule or regulation, may require the assistance of educational service district boards and/or superintendents in the performance of any duty, authority, or power imposed upon or granted to the state board of education by law, upon such terms and conditions as the state board of education shall establish. Such authority to assist the state board of education shall be limited to the service function of information collection and dissemination and the attestation to the accuracy and completeness of submitted information.

(2) During the 2003-05 biennium, educational service districts may, at the request of the state board of education, receive and screen applications for school accreditation, conduct school accreditation site visits pursuant to state board of education rules, and submit to the state board of education post-site visit recommendations for school accreditation. The educational service districts may assess a cooperative service fee to recover actual plus reasonable indirect costs for the purposes of this subsection.

Sec. 912. RCW 28A.500.030 and 2002 c 317 s 4 are each amended to read as follows:

Allocation of state matching funds to eligible districts for local effort assistance shall be determined as follows:

(1) Funds raised by the district through maintenance and operation levies shall be matched with state funds using the following ratio of state funds to levy funds:

(a) The difference between the district's twelve percent levy rate and the statewide average twelve percent levy rate; to

(b) The statewide average twelve percent levy rate.

(2) The maximum amount of state matching funds for districts eligible for local effort assistance shall be the district's twelve percent levy amount, multiplied by the following percentage:

(a) The difference between the district's twelve percent levy rate and the statewide average twelve percent levy rate; divided by

(b) The district's twelve percent levy rate.

(3) Calendar year 2003 allocations and maximum eligibility under this chapter shall be multiplied by 0.99.

(4) From January 1, 2004, to June 30, 2005, allocations and maximum eligibility under this chapter shall be multiplied by 0.937.

Sec. 913. RCW 38.52.106 and 2002 c 371 s 904 are each amended to read as follows:

The Nisqually earthquake account is created in the state treasury. Moneys may be placed in the account from tax revenues, budget transfers or appropriations, federal appropriations, gifts, or any other lawful source. Moneys in the account may be spent only after appropriation. Moneys in the account shall be used only to support state and local government disaster response and recovery efforts associated with the Nisqually earthquake. During the ~~((2001-))~~ 2003-2005 fiscal biennium, the legislature may transfer moneys from the Nisqually earthquake account to the disaster response account for fire suppression and mobilization costs ~~((, and costs associated with national security preparedness activities))~~.

Sec. 914. RCW 41.50.110 and 2003 c 295 (SHB 1204) s 3 and 2003 c 294 (HB 1200) s 11 are each reenacted and amended to read as follows:

(1) Except as provided by RCW 41.50.255 and subsection (6) of this section, all expenses of the administration of the department, the expenses of administration of the retirement systems, and the expenses of the administration of the office of the state actuary created in chapters 2.10, 2.12, 41.26, 41.32, 41.40, 41.34, 41.35, 43.43, and 44.44 RCW shall be paid from the department of retirement systems expense fund.

(2) In order to reimburse the department of retirement systems expense fund on an equitable basis the department shall ascertain and report to each employer, as defined in RCW 41.26.030, 41.32.010, 41.35.010, or 41.40.010, the sum necessary to defray its proportional share of the entire expense of the administration of the retirement system that the employer participates in during the ensuing biennium or fiscal year whichever may be required. Such sum is to be computed in an amount directly proportional to the estimated entire expense of the administration as the ratio of monthly salaries of the employer's members bears to the total salaries of all members in the entire system. It shall then be the duty of all such employers to include in their budgets or otherwise provide the amounts so required.

(3) The department shall compute and bill each employer, as defined in RCW 41.26.030, 41.32.010, 41.35.010, or 41.40.010, at the end of each month for the amount due for that month to the department of retirement systems expense fund and the same shall be paid as are its other obligations. Such computation as to each employer shall be made on a percentage rate of salary established by the department. However, the department may at its discretion establish a system of billing based upon calendar year quarters in which event the said billing shall be at the end of each such quarter.

(4) 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.

(5) 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.

(6) Expenses other than those under RCW 41.34.060(3) shall be paid pursuant to subsection (1) of this section.

(7) During the 2003-2005 fiscal biennium, the legislature may transfer from the department of retirement systems' expense fund to the state general fund such amounts as reflect the excess fund balance of the fund.

Sec. 915. RCW 43.03.050 and 1990 c 30 s 1 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. However, during the 2003-05 fiscal biennium, the allowances for any county that is part of a metropolitan statistical area, the largest city of which is in another state, shall equal the allowances prescribed for that larger city.

(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 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. 916. RCW 43.08.190 and 1991 sp.s. c 13 s 83 are each amended to read as follows:

There is hereby created a fund within the state treasury to be known as the "state treasurer's service fund". Such fund shall be used solely for the payment of costs and expenses incurred in the operation and administration of the state treasurer's office.

Moneys shall be allocated monthly and placed in the state treasurer's service fund equivalent to a maximum of one percent of the trust and treasury average daily cash balances from the earnings generated under the authority of RCW 43.79A.040 and 43.84.080 other than earnings generated from investment of balances in funds and accounts specified in RCW 43.79.040(~~((2)(b)))~~) or 43.84.092(~~((2)(b)))~~) (4)(b). The allocation shall precede the distribution of the remaining earnings as prescribed under RCW 43.79A.040 and 43.84.092. The state treasurer shall establish a uniform allocation rate based on the appropriations for the treasurer's office.

During the 2003-2005 fiscal biennium, the legislature may transfer from the state treasurer's service fund to the state general fund such amounts as reflect the excess fund balance of the fund.

Sec. 917. RCW 43.10.180 and 1979 c 151 s 95 are each amended to read as follows:

(1) The attorney general shall keep such records as are necessary to facilitate proper allocation of costs to funds and agencies served and the director of financial management shall prescribe appropriate accounting procedures to accurately allocate costs to funds and agencies served. Billings shall be adjusted in line with actual costs incurred at intervals not to exceed six months.

(2) During the 2003-05 fiscal biennium, all expenses for administration of the office of the attorney general shall be allocated to and paid from the legal services revolving fund in accordance with accounting procedures prescribed by the director of financial management.

Sec. 918. RCW 43.08.250 and 2001 2nd sp.s. c 7 s 914 and 2001 c 289 s 4 are each reenacted and amended to read as follows:

The money received by the state treasurer from fees, fines, forfeitures, penalties, reimbursements or assessments by any court organized under Title 3 or 35 RCW, or chapter 2.08 RCW, shall be deposited in the public safety and education account which is hereby created in the state treasury. The legislature shall appropriate the funds in the account to promote traffic safety education, highway safety, criminal justice training, crime victims' compensation, judicial education, the judicial information system, civil representation of indigent persons, winter recreation parking, drug court operations, and state game programs. During the fiscal biennium ending June 30, (~~(2003))~~ 2005, the legislature may appropriate moneys from the public safety and education account for purposes of appellate indigent defense and other operations of the office of public defense, the criminal litigation unit of the attorney general's office, the treatment alternatives to street crimes program, crime victims advocacy programs, justice information network telecommunication planning, treatment for supplemental security income clients, sexual assault treatment,

operations of the office of administrator for the courts, security in the common schools, alternative school start-up grants, programs for disruptive students, criminal justice data collection, Washington state patrol criminal justice activities, drug court operations, unified family courts, local court backlog assistance, financial assistance to local jurisdictions for extraordinary costs incurred in the adjudication of criminal cases, domestic violence treatment and related services, the department of corrections' costs in implementing chapter 196, Laws of 1999, reimbursement of local governments for costs associated with implementing criminal and civil justice legislation, the replacement of the department of corrections' offender-based tracking system, secure and semi-secure crisis residential centers, HOPE beds, the family policy council and community public health and safety networks, the street youth program, public notification about registered sex offenders, and narcotics or methamphetamine-related enforcement, education, training, and drug and alcohol treatment services.

Sec. 919. RCW 43.43.944 and 1999 c 117 s 2 are each amended to read as follows:

(1) The fire service training account is hereby established in the state treasury. The fund shall consist of:

(a) All fees received by the Washington state patrol for fire service training;

(b) All grants and bequests accepted by the Washington state patrol under RCW 43.43.940; and

(c) Twenty percent of all moneys received by the state on fire insurance premiums.

(2) Moneys in the account may be appropriated only for fire service training. During the 2003-2005 fiscal biennium, the legislature may appropriate funds from this account for school fire prevention activities within the Washington state patrol.

Sec. 920. RCW 43.135.045 and 2001 c 3 s 9, 2000 2nd sp.s. c 5 s 1, and 2000 2nd sp.s. c 2 s 3 are each reenacted and amended to read as follows:

(1) The emergency reserve fund is established in the state treasury. During each fiscal year, the state treasurer shall deposit in the emergency reserve fund all general fund—state revenues in excess of the state expenditure limit for that fiscal year. Deposits shall be made at the end of each fiscal quarter based on projections of state revenues and the state expenditure limit. The treasurer shall make transfers between these accounts as necessary to reconcile actual annual revenues and the expenditure limit for fiscal year 2000 and thereafter.

(2) The legislature may appropriate moneys from the emergency reserve fund only with approval of at least two-thirds of the members of each house of the legislature, and then only if the appropriation does not cause total expenditures to exceed the state expenditure limit under this chapter.

(3) The emergency reserve fund balance shall not exceed five percent of annual general fund—state revenues as projected by the official state revenue forecast. Any balance in excess of five percent shall be transferred on a quarterly basis by the state treasurer as follows: Seventy-five percent to the student achievement fund hereby created in the state treasury and twenty-five percent to the general fund balance. The treasurer shall make transfers between these accounts as necessary to reconcile actual annual revenues for fiscal year

2000 and thereafter. When per-student state funding for the maintenance and operation of K-12 education meets a level of no less than ninety percent of the national average of total funding from all sources per student as determined by the most recent published data from the national center for education statistics of the United States department of education, as calculated by the office of financial management, further deposits to the student achievement fund shall be required only to the extent necessary to maintain the ninety-percent level. Remaining funds are part of the general fund balance and these funds are subject to the expenditure limits of this chapter.

(4) The education construction fund is hereby created in the state treasury.

(a) Funds may be appropriated from the education construction fund exclusively for common school construction or higher education construction.

(b) Funds may be appropriated for any other purpose only if approved by a two-thirds vote of each house of the legislature and if approved by a vote of the people at the next general election. An appropriation approved by the people under this subsection shall result in an adjustment to the state expenditure limit only for the fiscal period for which the appropriation is made and shall not affect any subsequent fiscal period.

(5) Funds from the student achievement fund shall be appropriated to the superintendent of public instruction strictly for distribution to school districts to meet the provisions set out in the student achievement act. Allocations shall be made on an equal per full-time equivalent student basis to each school district.

(6) Earnings of the emergency reserve fund under RCW 43.84.092(4)(a) shall be transferred quarterly to the multimodal transportation account, except for those earnings that are in excess of thirty-five million dollars each fiscal year. Within thirty days following any fiscal year in which earnings transferred to the multimodal transportation account under this subsection did not total thirty-five million dollars, the state treasurer shall transfer from the emergency reserve fund an amount necessary to bring the total deposited in the multimodal transportation account under this subsection to thirty-five million dollars. The revenues to the multimodal transportation account reflected in this subsection provide ongoing support for the transportation programs of the state. However, it is the intent of the legislature that any new long-term financial support that may be subsequently provided for transportation programs will be used to replace and supplant the revenues reflected in this subsection, thereby allowing those revenues to be returned to the purposes to which they were previously dedicated. No transfers from the emergency reserve fund to the multimodal fund shall be made during the 2003-05 fiscal biennium.

Sec. 921. RCW 43.320.110 and 2002 c 371 s 912 are each amended to read as follows:

There is created a local fund known as the "financial services regulation fund" which shall consist of all moneys received by the divisions of the department of financial institutions, except for the division of securities which shall deposit thirteen percent of all moneys received, and which shall be used for the purchase of supplies and necessary equipment; the payment of salaries, wages, and utilities; the establishment of reserves; and other incidental costs required for the proper regulation of individuals and entities subject to regulation by the department. The state treasurer shall be the custodian of the fund. Disbursements from the fund shall be on authorization of the director of

financial institutions or the director's designee. In order to maintain an effective expenditure and revenue control, the fund shall be subject in all respects to chapter 43.88 RCW, but no appropriation is required to permit expenditures and payment of obligations from the fund.

~~((Between July 1, 2001, and December 31, 2001, the legislature may transfer up to two million dollars from the financial services regulation fund to the digital government revolving account.))~~ During the ~~((2001-))~~ 2003-2005 fiscal biennium, the legislature may transfer from the financial services regulation fund to the state general fund such amounts as reflect the excess fund balance of the fund ~~((and appropriations reductions made by the 2002 supplemental appropriations act for administrative efficiencies and savings)).~~

Sec. 922. RCW 46.09.170 and 1995 c 166 s 9 are each amended to read as follows:

(1) From time to time, but at least once each year, the state treasurer shall refund from the motor vehicle fund one percent of the motor vehicle fuel tax revenues collected under chapter 82.36 RCW, based on the tax rate in effect January 1, 1990, less proper deductions for refunds and costs of collection as provided in RCW 46.68.090. The treasurer shall place these funds in the general fund as follows:

(a) Forty percent shall be credited to the ORV and nonhighway vehicle account and administered by the department of natural resources solely for planning, maintenance, and management of ORV recreation facilities, nonhighway roads, and nonhighway road recreation facilities. The funds under this subsection shall be expended in accordance with the following limitations:

(i) Not more than five percent may be expended for information programs under this chapter;

(ii) Not less than ten percent and not more than fifty percent may be expended for ORV recreation facilities;

(iii) Not more than twenty-five percent may be expended for maintenance of nonhighway roads;

(iv) Not more than fifty percent may be expended for nonhighway road recreation facilities;

(v) Ten percent shall be transferred to the interagency committee for outdoor recreation for grants to law enforcement agencies in those counties where the department of natural resources maintains ORV facilities. This amount is in addition to those distributions made by the interagency committee for outdoor recreation under (d)(i) of this subsection;

(b) Three and one-half percent shall be credited to the ORV and nonhighway vehicle account and administered by the department of fish and wildlife solely for the acquisition, planning, development, maintenance, and management of nonhighway roads and recreation facilities;

(c) Two percent shall be credited to the ORV and nonhighway vehicle account and administered by the parks and recreation commission solely for the maintenance and management of ORV use areas and facilities; and

(d) Fifty-four and one-half percent, together with the funds received by the interagency committee for outdoor recreation under RCW 46.09.110, shall be credited to the nonhighway and off-road vehicle activities program 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.

(3) During the 2003-05 fiscal biennium, the legislature may appropriate such amounts as reflect the excess fund balance in the ORV account to the interagency committee for outdoor recreation, the department of natural resources, the department of fish and wildlife, and the state parks and recreation commission. This appropriation is not required to follow the specific distribution specified in subsection (1) of this section.

Sec. 923. RCW 48.02.190 and 2002 c 371 s 913 are each amended to read as follows:

(1) As used in this section:

(a) "Organization" means every insurer, as defined in RCW 48.01.050, having a certificate of authority to do business in this state and every health care service contractor registered to do business in this state. "Class one" organizations shall consist of all insurers as defined in RCW 48.01.050. "Class two" organizations shall consist of all organizations registered under provisions of chapter 48.44 RCW.

(b) "Receipts" means (i) net direct premiums consisting of direct gross premiums, as defined in RCW 48.18.170, paid for insurance written or renewed upon risks or property resident, situated, or to be performed in this state, less return premiums and premiums on policies not taken, dividends paid or credited to policyholders on direct business, and premiums received from policies or contracts issued in connection with qualified plans as defined in RCW 48.14.021, and (ii) prepayments to health care service contractors as set forth in RCW 48.44.010(3) less experience rating credits, dividends, prepayments returned to subscribers, and payments for contracts not taken.

(2) The annual cost of operating the office of insurance commissioner shall be determined by legislative appropriation. A pro rata share of the cost shall be charged to all organizations. Each class of organization shall contribute sufficient in fees to the insurance commissioner's regulatory account to pay the reasonable costs, including overhead, of regulating that class of organization.

(3) Fees charged shall be calculated separately for each class of organization. The fee charged each organization shall be that portion of the cost of operating the insurance commissioner's office, for that class of organization, for the ensuing fiscal year that is represented by the organization's portion of the receipts collected or received by all organizations within that class on business in this state during the previous calendar year: PROVIDED, That the fee shall not

exceed one-eighth of one percent of receipts: PROVIDED FURTHER, That the minimum fee shall be one thousand dollars.

(4) The commissioner shall annually, on or before June 1, calculate and bill each organization for the amount of its fee. Fees shall be due and payable no later than June 15 of each year: PROVIDED, That if the necessary financial records are not available or if the amount of the legislative appropriation is not determined in time to carry out such calculations and bill such fees within the time specified, the commissioner may use the fee factors for the prior year as the basis for the fees and, if necessary, the commissioner may impose supplemental fees to fully and properly charge the organizations. The penalties for failure to pay fees when due shall be the same as the penalties for failure to pay taxes pursuant to RCW 48.14.060. The fees required by this section are in addition to all other taxes and fees now imposed or that may be subsequently imposed.

(5) All moneys collected shall be deposited in the insurance commissioner's regulatory account in the state treasury which is hereby created.

(6) Unexpended funds in the insurance commissioner's regulatory account at the close of a fiscal year shall be carried forward in the insurance commissioner's regulatory account to the succeeding fiscal year and shall be used to reduce future fees. During the ~~((2001-2003))~~ 2003-2005 fiscal biennium, the legislature may transfer from the insurance commissioner's regulatory account to the state general fund such amounts as reflect excess fund balance in the account.

Sec. 924. RCW 49.26.130 and 1989 c 154 s 9 are each amended to read as follows:

(1) The department shall administer this chapter.

(2) The director of the department shall adopt, in accordance with chapters 34.05 and 49.17 RCW, rules necessary to carry out this chapter.

(3) The department shall prescribe fees for the issuance and renewal of certificates, including recertification, and the administration of examinations, and for the review of training courses.

(4) The asbestos account is hereby established in the state treasury. All fees collected under this chapter shall be deposited in the account. Moneys in the account shall be spent after appropriation only for costs incurred by the department in the administration and enforcement of this chapter. Disbursements from the account shall be on authorization of the director of the department or the director's designee.

(5) During the 2003-2005 fiscal biennium, the legislature may transfer from the asbestos account to the state general fund such amounts as reflect the excess fund balance in the account.

Sec. 925. RCW 50.16.010 and 2002 c 371 s 914 are each amended to read as follows:

There shall be maintained as special funds, separate and apart from all public moneys or funds of this state an unemployment compensation fund, an administrative contingency fund, and a federal interest payment fund, which shall be administered by the commissioner exclusively for the purposes of this title, and to which RCW 43.01.050 shall not be applicable.

The unemployment compensation fund shall consist of

(1) all contributions and payments in lieu of contributions collected pursuant to the provisions of this title,

(2) any property or securities acquired through the use of moneys belonging to the fund,

(3) all earnings of such property or securities,

(4) any moneys received from the federal unemployment account in the unemployment trust fund in accordance with Title XII of the social security act, as amended,

(5) all money recovered on official bonds for losses sustained by the fund,

(6) all money credited to this state's account in the unemployment trust fund pursuant to section 903 of the social security act, as amended,

(7) all money received from the federal government as reimbursement pursuant to section 204 of the federal-state extended compensation act of 1970 (84 Stat. 708-712; 26 U.S.C. Sec. 3304), and

(8) all moneys received for the fund from any other source.

All moneys in the unemployment compensation fund shall be commingled and undivided.

The administrative contingency fund shall consist of all interest on delinquent contributions collected pursuant to this title, all fines and penalties collected pursuant to the provisions of this title, all sums recovered on official bonds for losses sustained by the fund, and revenue received under RCW 50.24.014: PROVIDED, That all fees, fines, forfeitures and penalties collected or assessed by a district court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW as now exists or is later amended.

Moneys available in the administrative contingency fund, other than money in the special account created under RCW 50.24.014, shall be expended upon the direction of the commissioner, with the approval of the governor, whenever it appears to him or her that such expenditure is necessary for:

(a) The proper administration of this title and no federal funds are available for the specific purpose to which such expenditure is to be made, provided, the moneys are not substituted for appropriations from federal funds which, in the absence of such moneys, would be made available.

(b) The proper administration of this title for which purpose appropriations from federal funds have been requested but not yet received, provided, the administrative contingency fund will be reimbursed upon receipt of the requested federal appropriation.

(c) The proper administration of this title for which compliance and audit issues have been identified that establish federal claims requiring the expenditure of state resources in resolution. Claims must be resolved in the following priority: First priority is to provide services to eligible participants within the state; second priority is to provide substitute services or program support; and last priority is the direct payment of funds to the federal government.

(d) During the ~~((2001-))~~2003-2005 fiscal biennium, the cost of ~~((worker retraining programs))~~ the job skills program and the alliance for corporate education at community and technical colleges as appropriated by the legislature.

Money in the special account created under RCW 50.24.014 may only be expended, after appropriation, for the purposes specified in RCW 50.62.010,

50.62.020, 50.62.030, 50.04.070, 50.04.072, 50.16.010, 50.29.025, 50.24.014, 50.44.053, and 50.22.010.

Sec. 926. RCW 51.44.170 and 2002 c 371 s 916 are each amended to read as follows:

The industrial insurance premium refund account is created in the custody of the state treasurer. All industrial insurance refunds earned by state agencies or institutions of higher education under the state fund retrospective rating program shall be deposited into the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures from the account. Only the executive head of the agency or institution of higher education, or designee, may authorize expenditures from the account. No agency or institution of higher education may make an expenditure from the account for an amount greater than the refund earned by the agency. If the agency or institution of higher education has staff dedicated to workers' compensation claims management, expenditures from the account must be used to pay for that staff, but additional expenditure from the account may be used for any program within an agency or institution of higher education that promotes or provides incentives for employee workplace safety and health and early, appropriate return-to-work for injured employees. During the ~~((2001-2003))~~ 2003-2005 fiscal biennium, the legislature may transfer from the industrial insurance premium refund account to the state general fund such amounts as reflect the ~~((reductions made by the 2002 supplemental appropriations act for administrative efficiencies and savings))~~ excess fund balance of the account.

Sec. 927. RCW 66.08.190 and 2002 c 38 s 2 are each amended to read as follows:

(1) Except for revenues generated by the 2003 surcharge of \$0.42/liter on retail sales of spirits that shall be distributed to the state general fund during the 2003-2005 biennium, when excess funds are distributed, all moneys subject to distribution shall be disbursed as follows:

(a) Three-tenths of one percent to border areas under RCW 66.08.195; and

(b) From the amount remaining after distribution under (a) of this subsection, (i) fifty percent to the general fund of the state, (ii) ten percent to the counties of the state, and (iii) forty percent to the incorporated cities and towns of the state.

(2) During the months of June, September, December, and March of each year, prior to disbursing the distribution to incorporated cities and towns under subsection (1)(b) of this section, the treasurer shall deduct from that distribution an amount that will fund that quarter's allotments under RCW 43.88.110 from any legislative appropriation from the city and town research services account. The treasurer shall deposit the amount deducted into the city and town research services account.

(3) The governor may notify and direct the state treasurer to withhold the revenues to which the counties and cities are entitled under this section if the counties or cities are found to be in noncompliance pursuant to RCW 36.70A.340.

Sec. 928. RCW 66.16.010 and 1939 c 172 s 10 are each amended to read as follows:

(1) There shall be established at such places throughout the state as the liquor control board, constituted under this title, shall deem advisable, stores to be known as "state liquor stores," for the sale of liquor in accordance with the provisions of this title and the regulations: PROVIDED, That the prices of all liquor shall be fixed by the board from time to time so that the net annual revenue received by the board therefrom shall not exceed thirty-five percent. Effective no later than September 1, 2003, the liquor control board shall add an equivalent surcharge of \$0.42 per liter on all retail sales of spirits, excluding licensee, military, and tribal sales. The intent of this surcharge is to raise \$14,000,000 in additional general fund-state revenue for the 2003-2005 biennium. To the extent that a lesser surcharge is sufficient to raise \$14,000,000, the board may reduce the amount of the surcharge. The board shall remove the surcharge once it generates \$14,000,000, but no later than June 30, 2005.

(2) The liquor control board may, from time to time, fix the special price at which pure ethyl alcohol may be sold to physicians and dentists and institutions regularly conducted as hospitals, for use or consumption only in such hospitals; and may also fix the special price at which pure ethyl alcohol may be sold to schools, colleges and universities within the state for use for scientific purposes. Regularly conducted hospitals may have right to purchase pure ethyl alcohol on a federal permit.

(3) The liquor control board may also fix the special price at which pure ethyl alcohol may be sold to any department, branch or institution of the state of Washington, federal government, or to any person engaged in a manufacturing or industrial business or in scientific pursuits requiring alcohol for use therein.

(4) The liquor control board may also fix a special price at which pure ethyl alcohol may be sold to any private individual, and shall make regulations governing such sale of alcohol to private individuals as shall promote, as nearly as may be, the minimum purchase of such alcohol by such persons.

Sec. 929. RCW 67.40.040 and 1995 c 386 s 13 are each amended to read as follows:

(1) The proceeds from the sale of the bonds authorized in RCW 67.40.030, proceeds of the taxes imposed under RCW 67.40.090 and 67.40.130, and all other moneys received by the state convention and trade center from any public or private source which are intended to fund the acquisition, design, construction, expansion, exterior cleanup and repair of the Eagles building, conversion of various retail and other space to meeting rooms, purchase of the land and building known as the McKay Parcel, development of low-income housing, or renovation of the center, and those expenditures authorized under RCW 67.40.170 shall be deposited in the state convention and trade center account hereby created in the state treasury and in such subaccounts as are deemed appropriate by the directors of the corporation.

(2) Moneys in the account, including unanticipated revenues under RCW 43.79.270, shall be used exclusively for the following purposes in the following priority:

- (a) For reimbursement of the state general fund under RCW 67.40.060;
- (b) After appropriation by statute:
 - (i) For payment of expenses incurred in the issuance and sale of the bonds issued under RCW 67.40.030;
 - (ii) For expenditures authorized in RCW 67.40.170;

(iii) For acquisition, design, and construction of the state convention and trade center; and

(iv) For reimbursement of any expenditures from the state general fund in support of the state convention and trade center; and

(c) For transfer to the state convention and trade center operations account.

(3) The corporation shall identify with specificity those facilities of the state convention and trade center that are to be financed with proceeds of general obligation bonds, the interest on which is intended to be excluded from gross income for federal income tax purposes. The corporation shall not permit the extent or manner of private business use of those bond-financed facilities to be inconsistent with treatment of such bonds as governmental bonds under applicable provisions of the Internal Revenue Code of 1986, as amended.

(4) In order to ensure consistent treatment of bonds authorized under RCW 67.40.030 with applicable provisions of the Internal Revenue Code of 1986, as amended, and notwithstanding RCW 43.84.092, investment earnings on bond proceeds deposited in the state convention and trade center account in the state treasury shall be retained in the account, and shall be expended by the corporation for the purposes authorized under chapter 386, Laws of 1995 and in a manner consistent with applicable provisions of the Internal Revenue Code of 1986, as amended.

(5) During the 2003-2005 fiscal biennium, the legislature may transfer from the state convention and trade center account to the state general fund such amounts as reflect the excess fund balance of the account.

Sec. 930. RCW 69.50.520 and 2002 c 371 s 920 are each amended to read as follows:

The violence reduction and drug enforcement account is created in the state treasury. All designated receipts from RCW 9.41.110(8), 66.24.210(4), 66.24.290(2), 69.50.505(i)(1), 82.08.150(5), 82.24.020(2), 82.64.020, and section 420, chapter 271, Laws of 1989 shall be deposited into the account. Expenditures from the account may be used only for funding services and programs under chapter 271, Laws of 1989 and chapter 7, Laws of 1994 sp. sess., including state incarceration costs. Funds from the account may also be appropriated to reimburse local governments for costs associated with implementing criminal justice legislation including chapter 338, Laws of 1997. During the ~~((2001-))~~ 2003-2005 biennium, funds from the account may also be used for costs associated with providing grants to local governments in accordance with chapter 338, Laws of 1997, ~~((the replacement of the department of corrections' offender-based tracking system))~~ funding drug offender treatment services in accordance with RCW 70.96A.350, maintenance and operating costs of the Washington association of sheriffs and police chiefs jail reporting system, civil indigent legal representation, ~~((and for))~~ multijurisdictional narcotics task forces ~~((After July 1, 2003, at least seven and one-half percent of expenditures from the account shall be used for providing))~~, and grants to community networks under chapter 70.190 RCW by the family policy council.

Sec. 931. RCW 70.79.350 and 1979 c 151 s 171 are each amended to read as follows:

The chief inspector shall give an official receipt for all fees required by chapter 70.79 RCW and shall transfer all sums so received to the treasurer of the

state of Washington as ex officio custodian thereof and ~~((by him, as such custodian,))~~ the treasurer shall place ~~((said))~~ all sums in a special fund hereby created and designated as the "pressure systems safety fund". ~~((Said))~~ Funds ~~((by him))~~ shall be paid out upon vouchers duly and regularly issued therefor and approved by the director of the department of labor and industries. The treasurer, as ex officio custodian of ~~((said))~~ the fund, shall keep an accurate record of any payments into ~~((said))~~ the fund, and of all disbursements therefrom. ~~((Said))~~ The fund shall be used exclusively to defray only the expenses of administering chapter 70.79 RCW by the chief inspector as authorized by law and the expenses incident to the maintenance of ~~((his))~~ the office. The fund shall be charged with its pro rata share of the cost of administering ~~((said))~~ the fund which is to be determined by the director of financial management and by the director of the department of labor and industries.

During the 2003-2005 fiscal biennium, the legislature may transfer from the pressure systems safety fund to the state general fund such amounts as reflect the excess fund balance of the fund.

Sec. 932. RCW 70.94.483 and 1991 sp.s. c 13 ss 64, 65 are each amended to read as follows:

(1) The wood stove education and enforcement account is hereby created in the state treasury. 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. However, during the 2003-05 fiscal biennium, the legislature may transfer from the wood stove education and enforcement account to the air pollution control account such amounts as specified in the omnibus operating budget bill.

(2) The department of ecology, with the advice of the advisory committee, shall set a flat fee of thirty dollars, on the retail sale, as defined in RCW 82.04.050, of each solid fuel burning device after January 1, 1992. 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 thirty dollars to account for inflation as determined by the state office of the economic and revenue forecast council. 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 deposit fees collected under this section in the wood stove education and enforcement account.

Sec. 933. RCW 70.105D.070 and 2001 c 27 s 2 are each amended to read as follows:

(1) The state toxics control account and the local toxics control account are hereby created in the state treasury.

(2) The following moneys shall be deposited into the state toxics control account: (a) Those revenues which are raised by the tax imposed under RCW

82.21.030 and which are attributable to that portion of the rate equal to thirty-three one-hundredths of one percent; (b) the costs of remedial actions recovered under this chapter or chapter 70.105A RCW; (c) penalties collected or recovered under this chapter; and (d) any other money appropriated or transferred to the account by the legislature. Moneys in the account may be used only to carry out the purposes of this chapter, including but not limited to the following activities:

(i) The state's responsibility for hazardous waste planning, management, regulation, enforcement, technical assistance, and public education required under chapter 70.105 RCW;

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

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

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

(v) Financial assistance for local programs in accordance with chapters 70.95, 70.95C, 70.95I, and 70.105 RCW;

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

(vii) Hazardous materials emergency response training;

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

(ix) Programs authorized under chapter 70.146 RCW;

(x) A public participation program, including regional citizen advisory committees;

(xi) Public funding to assist potentially liable persons to pay for the costs of remedial action in compliance with cleanup standards under RCW 70.105D.030(2)(e) but only when the amount and terms of such funding are established under a settlement agreement under RCW 70.105D.040(4) and when the director has found that the funding will achieve both (A) a substantially more expeditious or enhanced cleanup than would otherwise occur, and (B) the prevention or mitigation of unfair economic hardship; and

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

(3) The following moneys shall be deposited into the local toxics control account: Those revenues which are raised by the tax imposed under RCW 82.21.030 and which are attributable to that portion of the rate equal to thirty-seven one-hundredths of one percent.

(a) Moneys deposited in the local toxics control account shall be used by the department for grants or loans to local governments for the following purposes in descending order of priority: (i) Remedial actions; (ii) hazardous waste plans and programs under chapter 70.105 RCW; (iii) solid waste plans and programs under chapters 70.95, 70.95C, 70.95I, and 70.105 RCW; (iv) funds for a program to assist in the assessment and cleanup of sites of methamphetamine production, but not to be used for the initial containment of such sites, consistent with the responsibilities and intent of RCW 69.50.511; and (v) cleanup and disposal of hazardous substances from abandoned or derelict vessels that pose a threat to human health or the environment. For purposes of this subsection (3)(a)(v), "abandoned or derelict vessels" means vessels that have little or no value and either have no identified owner or have an identified owner lacking financial

resources to clean up and dispose of the vessel. Funds for plans and programs shall be allocated consistent with the priorities and matching requirements established in chapters 70.105, 70.95C, 70.95I, and 70.95 RCW. During the 1999-2001 fiscal biennium, moneys in the account may also be used for the following activities: Conducting a study of whether dioxins occur in fertilizers, soil amendments, and soils; reviewing applications for registration of fertilizers; and conducting a study of plant uptake of metals. During the 2003-05 fiscal biennium, the legislature may transfer from the local toxics control account to the state toxics control account such amounts as specified in the omnibus operating budget bill for methamphetamine lab cleanup.

(b) Funds may also be appropriated to the department of health to implement programs to reduce testing requirements under the federal safe drinking water act for public water systems. The department of health shall reimburse the account from fees assessed under RCW 70.119A.115 by June 30, 1995.

(4) Except for unanticipated receipts under RCW 43.79.260 through 43.79.282, moneys in the state and local toxics control accounts may be spent only after appropriation by statute.

(5) One percent of the moneys deposited into the state and local toxics control accounts shall be allocated only for public participation grants to persons who may be adversely affected by a release or threatened release of a hazardous substance and to not-for-profit public interest organizations. The primary purpose of these grants is to facilitate the participation by persons and organizations in the investigation and remedying of releases or threatened releases of hazardous substances and to implement the state's solid and hazardous waste management priorities. However, during the 1999-2001 fiscal biennium, funding may not be granted to entities engaged in lobbying activities, and applicants may not be awarded grants if their cumulative grant awards under this section exceed two hundred thousand dollars. No grant may exceed sixty thousand dollars. Grants may be renewed annually. Moneys appropriated for public participation from either account which are not expended at the close of any biennium shall revert to the state toxics control account.

(6) No moneys deposited into either the state or local toxics control account may be used for solid waste incinerator feasibility studies, construction, maintenance, or operation.

(7) The department shall adopt rules for grant or loan issuance and performance.

Sec. 934. RCW 70.146.030 and 2002 c 371 s 921 are each amended to read as follows:

(1) The water quality account is hereby created in the state treasury. Moneys in the account may be used only in a manner consistent with this chapter. Moneys deposited in the account shall be administered by the department of ecology and shall be subject to legislative appropriation. Moneys placed in the account shall include tax receipts as provided in RCW 82.24.027, 82.26.025, and 82.32.390, principal and interest from the repayment of any loans granted pursuant to this chapter, and any other moneys appropriated to the account by the legislature.

(2) The department may use or permit the use of any moneys in the account to make grants or loans to public bodies, including grants to public bodies as

cost-sharing moneys in any case where federal, local, or other funds are made available on a cost-sharing basis, for water pollution control facilities and activities, or for purposes of assisting a public body to obtain an ownership interest in water pollution control facilities and/or to defray a part of the payments made by a public body to a service provider under a service agreement entered into pursuant to RCW 70.150.060, within the purposes of this chapter and for related administrative expenses. For the period July 1, (~~2001~~) 2003, to June 30, (~~2003~~) 2005, moneys in the account may be used to process applications received by the department that seek to make changes to or transfer existing water rights and for grants and technical assistance to public bodies for watershed planning under chapter 90.82 RCW. No more than three percent of the moneys deposited in the account may be used by the department to pay for the administration of the grant and loan program authorized by this chapter.

(3) Beginning with the biennium ending June 30, 1997, the department shall present a biennial progress report on the use of moneys from the account to the chairs of the senate committee on ways and means and the house of representatives committee on appropriations. The first report is due June 30, 1996, and the report for each succeeding biennium is due December 31 of the odd-numbered year. The report shall consist of a list of each recipient, project description, and amount of the grant, loan, or both.

Sec. 935. RCW 70.146.080 and 1994 sp.s. c 6 s 902 are each amended to read as follows:

Within thirty days after June 30, 1987, and within thirty days after each succeeding fiscal year thereafter, the state treasurer shall determine the tax receipts deposited into the water quality account for the preceding fiscal year. If the tax receipts deposited into the account in each of the fiscal years 1988 and 1989 are less than forty million dollars, the state treasurer shall transfer sufficient moneys from general state revenues into the water quality account to bring the total receipts in each fiscal year up to forty million dollars.

For the biennium ending June 30, 1991, if the tax receipts deposited into the water quality account and the earnings on investment of balances credited to the account are less than ninety million dollars, the treasurer shall transfer sufficient moneys from general state revenues into the water quality account to bring the total revenue up to ninety million dollars. The determination and transfer shall be made by July 31, 1991.

For fiscal year 1992 and for fiscal years 1995 and 1996 and thereafter, if the tax receipts deposited into the water quality account for each fiscal year are less than forty-five million dollars, the treasurer shall transfer sufficient moneys from general state revenues into the water quality account to bring the total revenue up to forty-five million dollars. However, during the 2003-05 fiscal biennium, the legislature may specify the transfer of a different amount in the operating budget bill. Determinations and transfers shall be made by July 31 for the preceding fiscal year.

Sec. 936. RCW 72.11.040 and 2001 2nd sp.s. c 7 s 919 are each amended to read as follows:

The cost of supervision fund is created in the custody of the state treasurer. All receipts from assessments made under RCW 9.94A.780 and 72.04A.120 shall be deposited into the fund. Expenditures from the fund may be used only

to support the collection of legal financial obligations. During the ~~((2001-))~~ 2003-2005 biennium, funds from the account may also be used for costs associated with the department's supervision of the offenders in the community. Only the secretary of the department of corrections or the secretary's designee may authorize expenditures from the fund. The fund is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures.

Sec. 937. RCW 76.12.050 and 1973 1st ex.s. c 50 s 1 are each amended to read as follows:

(1) The board of county commissioners of any county and/or the mayor and city council or city commission of any city or town and/or the board of natural resources shall have authority to exchange, each with the other, or with the federal forest service, the federal government or any proper agency thereof and/or with any private landowner, county land of any character, land owned by municipalities of any character, and land owned by the state under the jurisdiction of the department of natural resources, for real property of equal value for the purpose of consolidating and blocking up the respective land holdings of any county, municipality, the federal government, or the state of Washington or for the purpose of obtaining lands having commercial recreational leasing potential.

(2) During the biennium ending June 30, 2005, the department, with approval of the board, may exchange any state forest land and any timber thereon for any real property and proceeds of equal value. Proceeds may be in the form of cash or services in order to achieve the purposes established in this section. Any cash received as part of an exchange transaction shall be deposited in the forest development account to pay for administrative expenses incurred in carrying out an exchange transaction. The amount of proceeds received from the exchange partner may not exceed five percent of the total value of the exchange. The receipt of proceeds shall not change the character of the transaction from an exchange to a sale.

Sec. 938. RCW 76.12.170 and 1988 c 128 s 36 are each amended to read as follows:

All receipts from the sale of stock or seed shall be deposited in a state forest nursery revolving fund to be maintained by the department, which is hereby authorized to use all money in said fund for the maintenance of the state tree nursery or the planting of denuded state owned lands.

During the 2003-2005 fiscal biennium, the legislature may transfer from the state forest nursery revolving fund to the state general fund such amounts as reflect the excess fund balance of the fund.

Sec. 939. RCW 79.08.180 and 1987 c 113 s 1 are each amended to read as follows:

(1) The department of natural resources, with the approval of the board of natural resources, may exchange any state land and any timber thereon for any land of equal value in order to:

- ~~((1))~~ (a) Facilitate the marketing of forest products of state lands;
- ~~((2))~~ (b) Consolidate and block-up state lands;
- ~~((3))~~ (c) Acquire lands having commercial recreational leasing potential;
- ~~((4))~~ (d) Acquire county-owned lands;

~~((5))~~ (e) Acquire urban property which has greater income potential or which could be more efficiently managed by the department in exchange for state urban lands as defined in RCW 79.01.784; or

~~((6))~~ (f) Acquire any other lands when such exchange is determined by the board of natural resources to be in the best interest of the trust for which the state land is held.

~~((7))~~ (2) Land exchanged under this section shall not be used to reduce the publicly owned forest land base.

~~((8))~~ (3) The board of natural resources shall determine that each land exchange is in the best interest of the trust for which the land is held prior to authorizing the land exchange.

(4) During the biennium ending June 30, 2005, the department, with approval of the board, may exchange any state land and any timber thereon for any land and proceeds of equal value. Proceeds may be in the form of cash or services in order to achieve the purposes established in this section. Any cash received as part of an exchange transaction shall be deposited in the resource management cost account to pay for administrative expenses incurred in carrying out an exchange transaction. The amount of proceeds received from the exchange partner may not exceed five percent of the total value of the exchange. The receipt of proceeds shall not change the character of the transaction from an exchange to a sale.

Sec. 940. RCW 80.01.080 and 2002 c 371 s 924 are each amended to read as follows:

There is created in the state treasury a public service revolving fund. Regulatory fees payable by all types of public service companies shall be deposited to the credit of the public service revolving fund. Except for expenses payable out of the pipeline safety account, all expense of operation of the Washington utilities and transportation commission shall be payable out of the public service revolving fund.

During the ~~((2001-2003))~~ 2003-2005 fiscal biennium, the legislature may transfer from the public service revolving fund to the state general fund such amounts as reflect the ~~((appropriations reductions made by the 2002 supplemental appropriations act for administrative efficiencies and savings))~~ excess fund balance of the fund.

Sec. 941. RCW 82.14.200 and 1998 c 321 s 8 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 82.44.110. 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 statewide 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, 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, 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 statewide 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 statewide 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, 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, 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 subsections (2) through (5) of this section in any calendar year shall not exceed an amount equal to seventy percent of the statewide 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, at such times as distributions are made under RCW 82.44.150, the state treasurer shall apportion an amount to the county public health account created in RCW 70.05.125 equal to the adjustment under RCW 70.05.125(2)(b).

(9) 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) and (8) of this section, then the additional revenues shall be credited and transferred as follows:

(a) Fifty percent to the public facilities construction loan revolving account under RCW 43.160.080; and

(b) Fifty percent to the distressed county public facilities construction loan account under RCW 43.160.220, or so much thereof as will not cause the balance in the account to exceed twenty-five million dollars. Any remaining funds shall be deposited into the public facilities construction loan revolving account.

(10) During the 2003-2005 fiscal biennium, the legislature may transfer from the county sales and use tax equalization account to the state general fund such amounts as reflect the excess fund balance of the account.

Sec. 942. RCW 82.14.210 and 1996 c 64 s 1 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 82.44.110(1)(e). Funds in this account shall be allocated by the state treasurer according to the following procedure:

(1) Prior to January 1st of each year the department of revenue shall determine the total and the per capita levels of revenues for each city and the statewide 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, 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 82.44.155, multiplied by forty-five fifty-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, 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 statewide 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 statewide weighted average per capita level of revenues for all cities determined under subsection (1) of this section, subject to reduction under subsection (6) 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, 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 (6) 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) For a city with an official incorporation date after January 1, 1990, municipal sales and use tax equalization distributions shall be made according to the procedures in this subsection. Municipal sales and use tax equalization distributions to eligible new cities shall be made at the same time as distributions are made under subsections (3) and (4) of this section. The department of revenue shall follow the estimating procedures outlined in this subsection until the new city has received a full year's worth of revenues under RCW 82.14.030(1) as of the January municipal sales and use tax equalization distribution.

(a) Whether a newly incorporated city determined to receive funds under this subsection receives its first equalization payment at the January, April, July,

or October municipal sales and use tax equalization distribution shall depend on the date the city first imposes the tax authorized under RCW 82.14.030(1).

(i) A newly incorporated city imposing the tax authorized under RCW 82.14.030(1) effective as of January 1st shall be eligible to receive funds under this subsection beginning with the April municipal sales and use tax equalization distribution of that year.

(ii) A newly incorporated city imposing the tax authorized under RCW 82.14.030(1) effective as of February 1st, March 1st, or April 1st shall be eligible to receive funds under this subsection beginning with the July municipal sales and use tax equalization distribution of that year.

(iii) A newly incorporated city imposing the tax authorized under RCW 82.14.030(1) effective as of May 1st, June 1st, or July 1st shall be eligible to receive funds under this subsection beginning with the October municipal sales and use tax equalization distribution of that year.

(iv) A newly incorporated city imposing the tax authorized under RCW 82.14.030(1) effective as of August 1st, September 1st, or October 1st shall be eligible to receive funds under this subsection beginning with the January municipal sales and use tax equalization distribution of the next year.

(v) A newly incorporated city imposing the tax authorized under RCW 82.14.030(1) effective as of November 1st or December 1st shall be eligible to receive funds under this subsection beginning with the April municipal sales and use tax equalization distribution of the next year.

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

(i) Estimate the per capita amount of revenues from the tax authorized under RCW 82.14.030(1) that the new city would have received had the city received revenues from the tax the entire calendar year;

(ii) Calculate the amount provided under subsection (3) of this section based on the per capita revenues determined under (b)(i) of this subsection;

(iii) Prorate the amount determined under (b)(ii) of this subsection by the number of months the tax authorized under RCW 82.14.030(1) is imposed.

(c) A new city imposing the tax under RCW 82.14.030(2) at the maximum rate and receiving a distribution calculated under (b) of this subsection shall receive another distribution from the municipal sales and use tax equalization account. This distribution shall be equal to the calculation made under (b)(ii) of this subsection, prorated by the number of months the city imposes the tax authorized under RCW 82.14.030(2) at the full rate.

(d) The department of revenue shall advise the state treasurer of the amounts calculated under (b) and (c) of this subsection and the state treasurer shall distribute these amounts to the new city from the municipal sales and use tax equalization account subject to the limitations imposed in subsection (6) of this section.

(e) Revenues estimated under this subsection shall not affect the calculation of the statewide weighted average per capita level of revenues for all cities made under subsection (1) of this section.

(6) If inadequate revenues exist in the municipal sales and use tax equalization account to make the distributions under subsection (3), (4), or (5) of this section, then the distributions under subsections (3), (4), and (5) 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), (4), and (5) of this section to the cities.

(7) 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 (5) 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.

(8) During the 2003-2005 fiscal biennium, the legislature may transfer from the municipal sales and use tax equalization account to the state general fund such amounts as reflect the excess fund balance in the account.

Sec. 943. RCW 86.26.007 and 1997 c 149 s 914 are each amended to read as follows:

The flood control assistance account is hereby established in the state treasury. At the beginning of the 1997-99 fiscal biennium and each biennium thereafter the state treasurer shall transfer four million dollars from the general fund to the flood control assistance account. Moneys in the flood control assistance account may be spent only after appropriation for purposes specified under this chapter (~~or, during the 1997-99 fiscal biennium, for transfer to the disaster response account~~). During the 2003-2005 fiscal biennium, the legislature may transfer from the flood control assistance account to the state general fund such amounts as reflect the excess fund balance of the account.

NEW SECTION. Sec. 944. During the 2003-05 fiscal biennium, the requirement is suspended that the department of social and health services issue the reports required by the following statutes; however, the department shall continue to maintain any required data.

- (1) RCW 74.08A.130 (naturalization facilitation);
- (2) RCW 74.14C.080 (intensive family preservation services);
- (3) RCW 74.20A.340(1) (license suspension);
- (4) RCW 71.24.460 (mentally ill offender community transition);
- (5) Section 910, chapter 7, Laws of 2001 2nd sp. sess. (voluntary retirement);
- (6) RCW 80.36.475 (telephone assistance); and
- (7) RCW 72.23.450 (state hospitals).

NEW SECTION. Sec. 945. 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. 946. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

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Passed by the Senate June 4, 2003.

Passed by the House June 5, 2003.

Approved by the Governor June 26, 2003, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State June 26, 2003.

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

"I am returning herewith, without my approval as to sections 141, lines 25-30; 148(2); 203(7); 203(10); 203(12); 204(1)(e); 204(1)(h); 205(1)(h); 209(12); 217(1); 308(14), lines 18-22; 501(2)(a)(iv); 717; and 724 of Engrossed Substitute Senate Bill 5404 entitled:

"AN ACT Relating to fiscal matters;"

Engrossed Substitute Senate Bill No. 5404 is the state operating budget for the 2003-2005 Biennium. I have vetoed several provisions as described below:

Section 141, Page 23, Lines 25-30, Motor Pool (Department of General Administration)

This proviso would have limited the purchase or lease of additional vehicles for the state motor pool unless deemed necessary for safety. The core business of the Department of General Administration (GA) Motor Pool is to provide passenger vehicles for state agencies at a price that is cheaper than other state agency in-house motor pools or private vehicle rental car businesses. As budgets shrink, GA will need to maintain a cost-effective vehicle replacement schedule in order to ensure low maintenance costs and high vehicle re-sale value.

Section 148(2), Page 27, Reimbursement for Travel (Washington Utilities and Transportation Commission)

This proviso would have allowed the Washington Utilities and Transportation Commission (WUTC) to accept reimbursement from the companies it regulates to allow WUTC employees to travel to multi-state regulatory meetings. This directive is contrary to a prohibition in the State Ethics Act, RCW 42.52.150(4)(g). Regardless, WUTC needs to develop policies for non-state reimbursement of state travel as required by the State Administrative and Accounting Manual Section 10.20.60.

Section 203(7), Page 35, Co-Occurring Pilot Project (Department of Social and Health Services - Juvenile Rehabilitation Administration)

Section 203(7) would have required that \$1,478,000 from the Federal Juvenile Accountability Incentive Block Grant be used for continuation of the Co-Occurring Disorder Pilot Project. This project provides post-release planning and treatment of juvenile offenders with co-occurring disorders. The block grant was reduced for federal fiscal years 2003 and 2004. The state only has flexibility with respect to 25 percent of the federal funds received under the Juvenile Accountability Incentive Block Grant, which is less than the amount the proviso directs towards the post-release planning pilot program. Because the pool of eligible youth for these services will not necessarily require the full amount as appropriated, I am directing the Juvenile Rehabilitation Administration to continue the pilot, provide youth the post-release planning and treatment services needed, and utilize any remaining funds for other program requirements.

Section 203(10), Page 36, Transfer of Funds to Counties for Juvenile Services and Semi-Annual Report to Legislature (Department of Social and Health Services - Juvenile Rehabilitation Administration)

This proviso would have allowed the department to develop a funding distribution formula in consultation with juvenile court administrators and would have required a semi-annual report to the Legislature. I am directing the department to continue to coordinate with the court administrators to determine an appropriate distribution formula. However, this language creates a new reporting requirement for DSHS at a time when we are seeking ways to reduce reporting requirements in order to maximize limited staff resources; therefore, I have vetoed this subsection.

Section 203(12), Page 37, Allotment and Expenditure Reporting (Department of Social and Health Services - Juvenile Rehabilitation Administration)

Section 203(12) would have directed the Juvenile Rehabilitation Administration to allot and expend funds consistent with the category and budget unit structure submitted to the Legislative Evaluation and Accountability Program committee. This direction is consistent with current department-wide practices and is therefore not needed.

Section 204(1)(e), Page 39, New Six-Year Regional Support Network (RSN) Funding Formula (Department of Social and Health Services - Mental Health Program)

This proviso language could have been construed as restarting the implementation of the current RSN funding phase-in schedule, which has already been in place for two years. In addition, the department is required to comply with the federal Basic Budget Act that would actuarially adjust payment rates for community mental health services in its 2003-05 contracts with RSNs. My veto of this section will provide DSHS the flexibility to comply with federal requirements and continue the implementation of the new payment formula as originally scheduled.

Section 204(1)(h), Page 40, Regional Support Network Administrative (RSN) Cost Limit (Department of Social and Health Services - Mental Health Program)

This proviso would have limited state funding for RSN administrative costs to 10 percent of total funding. While one of the goals of my administration is to increase efficiencies and lower administrative costs, this approach is too broad and does not allow for differing circumstances among the regional support networks and their vendors, particularly in rural areas. Although I concur with the intent of the proviso, I have vetoed this section and direct DSHS to continue its ongoing efforts to work with the regional support networks to identify ways to deliver community mental health services in the most efficient manner.

Section 205(1)(h), Page 44, Consultation with Representative Stakeholders (Department of Social and Health Services - Developmental Disabilities Program)

This proviso would have required DSHS to identify redundant and unnecessary rules related to residential services for the developmentally disabled in consultation with service providers and clients. Without additional resources, I am concerned about the additional workload of a structured review requirement with providers and clients. Therefore, I have vetoed this section, but direct DSHS to continue its ongoing effort to remove redundant and unnecessary rules using the processes and procedures currently in place.

Section 209(12), Page 53, Report to the Legislature on the Projected Value of Drug Manufacturers' Supplemental (Department of Social and Health Services - Medical Assistance Administration)

This proviso would have required DSHS to separately track the total amount of supplemental rebates obtained from drug manufacturers, and compile a report thereon. Medical Assistance currently uses supplemental rebates to offset total expenditures. These amounts allow for the management of the

budget within fiscal year requirements. Decisions about retail pharmacy reimbursement rates should continue to be treated in a manner consistent with all other provider rates - that is, as a separate policy step occurring in the context of all other budget decisions. I have vetoed this section with the expectation that the department will track supplemental drug rebates and be prepared to respond to questions about the value of those rebates, even though a formal report will not be required.

Section 217(1), Page 61, Crime Victims Compensation Program (Department of Labor and Industries)

This proviso would have limited the Department of Labor and Industries' ability to administer the Crime Victims Compensation program. The budget includes adequate funding for the program, however, this subsection restricts the use of these funds in a way that would delay claim decisions for crime victim benefits, slow the processing of medical payments and potentially reduce or delay the collections of restitution meant to offset costs. The Department will take actions necessary to keep administrative costs at the lowest level possible.

Section 308(14), Page 90, Lines 18-22, beginning with "It is the intent . . .", SDS Lumber Company Settlement (Department of Natural Resources)

Section 308(14) provides \$2.7 million GF-S to the Department of Natural Resources (DNR) to acquire 232 acres of land and timber in Klickitat County from the SDS Lumber Company as part of a legal settlement. The proviso further requires DNR to recover through timber sales or federal grants, the \$2.7 million GF-S during the 2003-05 biennium, stating that if DNR is unsuccessful, the Legislature intends to reduce expenditures in DNR's Forest Practices Program for 2005-07 by the amount not recovered. I am vetoing the intent section of this proviso, which improperly attempts to bind the actions of a future legislature. Further, I believe this settlement is a one-time event limited to the facts of the specific case, and not an administrative precedent.

Section 501(2)(a)(iv), Page 97, Federal Appropriation Transfer for Teen Aware Program (Office of the Superintendent of Public Instruction - Statewide Programs)

This subsection would have required the transfer of \$400,000 of federal appropriation from the Department of Health (DOH) to the Office of the Superintendent of Public Instruction (OSPI) for the Teen Aware Program. Teen Aware is a program of student-produced media campaigns to promote sexual abstinence. Administration of Teen Aware has depended on a state match to the OSPI that is eliminated in the budget act. At the request of Superintendent Bergeson, I have vetoed this federal transfer, thereby reverting the appropriation back to DOH to promote sexual abstinence. I am directing the DOH to work with OSPI to explore options to continue involving students in the production of effective abstinence messages for young adults.

Section 717, Page 163, Agency Expenditures for Travel, Equipment, and Personal Service Contracts

This section would have required that the Office of Financial Management reduce agency allotments by a dollar amount based on the previous year's travel, equipment, and personal service contract expenditures. The Legislature has already added to my proposed staffing and efficiency cuts with further reductions in individual agency budgets. This additional cut is especially difficult for small and medium agencies to absorb without directly affecting client services. Furthermore, because the reduction only applies to General Fund-State dollars, it is not evenly applied to higher education institutions and other agencies that support travel, equipment and contracts with tuition or other non-state fund sources.

Section 724, Page 171, Agency Expenditures for Legislative Liaisons

In this proviso, the Legislature would have prohibited the use of appropriated funds for legislative liaison positions in higher education institutions and other state agencies, and eliminates related General Fund-State dollars. I am concerned that this restriction will unduly limit the ability of agencies to respond to legislative inquiries. Furthermore, some legislative liaisons are responsible for constituent and client relations for their agencies.

For these reasons, I have vetoed sections 141, lines 25-30; 148(2); 203(7); 203(10); 203(12); 204(1)(e); 204(1)(h); 205(1)(h); 209(12); 217(1); 308(14), lines 18-22; 501(2)(a)(iv); 717; and 724 of Engrossed Substitute Senate Bill No. 5404.

With the exception of sections 141, lines 25-30; 148(2); 203(7); 203(10); 203(12); 204(1)(e); 204(1)(h); 205(1)(h); 209(12); 217(1); 308(14), lines 18-22; 501(2)(a)(iv); 717; and 724 as specified above, Engrossed Substitute Senate Bill No. 5404 is approved."

CHAPTER 26

[Substitute Senate Bill 5401]

CAPITAL BUDGET

AN ACT Relating to the capital budget; making appropriations and authorizing expenditures for capital improvements; amending RCW 43.135.045, 46.09.170, 43.88.032, and 79A.05.630; amending 2001 2nd sp.s. c 8 ss 209 and 817 (uncodified); amending 2003 c 360 (ESHB 1163) ss 306, 307, and 309 (uncodified); reenacting and amending RCW 43.135.045 and 42.17.310; adding a new section to chapter 43.63A RCW; creating new sections; providing an effective date; providing an expiration date; and declaring an emergency.

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

NEW SECTION. Sec. 1. A capital budget is hereby adopted and, subject to the provisions set forth in this act, the several dollar amounts hereinafter specified, or so much thereof as shall be sufficient to accomplish the purposes designated, are hereby appropriated and authorized to be incurred for capital projects during the period ending June 30, 2005, out of the several funds specified in this act.

**PART 1
GENERAL GOVERNMENT**

NEW SECTION. Sec. 101. FOR THE JOINT LEGISLATIVE AUDIT AND REVIEW COMMITTEE

Capital Budget Studies (04-1-950)

The appropriations in this section are provided solely for capital studies, projects, and tasks pursuant to sections 923 and 924 of this act.

Reappropriation:

State Building Construction Account—State \$164,000

Appropriation:

State Building Construction Account—State \$500,000

Prior Biennia (Expenditures) \$0

Future Biennia (Projected Costs) \$0

TOTAL \$664,000

NEW SECTION. Sec. 102. FOR THE OFFICE OF THE SECRETARY OF STATE

Deferred Maintenance Reduction Backlog Projects: Regional Archive (04-1-002)

The appropriation in this section is subject to the following conditions and limitations: This appropriation is for the changes to the central Washington regional archives HVAC system to upgrade control systems.

Appropriation:

State Building Construction Account—State \$100,000

Prior Biennia (Expenditures) \$100,000

Future Biennia (Projected Costs) \$400,000

TOTAL \$600,000

***NEW SECTION. Sec. 103. FOR THE OFFICE OF THE STATE AUDITOR**

Moving and Equipment Costs (04-2-001)

Appropriation:

<i>Thurston County Capital Facilities Account—State</i>	\$100,000
<i>Prior Biennia (Expenditures)</i>	\$0
<i>Future Biennia (Projected Costs)</i>	\$0
TOTAL	\$100,000

*Sec. 103 was vetoed. See message at end of chapter.

NEW SECTION. Sec. 104. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Rural Washington Loan Fund (88-2-002)

Reappropriation:

State Building Construction Account—State	\$558,000
Rural Washington Loan Account—Federal	\$4,739,295
Subtotal Reappropriation	\$5,297,295
Prior Biennia (Expenditures)	\$2,353,072
Future Biennia (Projected Costs)	\$0
TOTAL	\$7,650,367

NEW SECTION. Sec. 105. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Rural Washington Loan Fund (RWLF) (04-4-009)

Appropriation:

General Fund—Federal	\$1,900,000
Rural Washington Loan Account—Federal	\$1,581,000
Subtotal Appropriation	\$3,481,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$24,132,000
TOTAL	\$27,613,000

NEW SECTION. Sec. 106. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Building for the Arts (00-2-005)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation shall support the projects listed in section 109, chapter 8, Laws of 2001 2nd sp. sess.

Reappropriation:

State Building Construction Account—State	\$1,963,092
Prior Biennia (Expenditures)	\$1,886,908
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,850,000

NEW SECTION. Sec. 107. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Building for the Arts (04-4-007)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is subject to the provisions of RCW 43.63A.750. The following projects are eligible for funding:

Projects	Location	Recommendation
Artspace (Tashiro Kaplan)	Seattle	\$300,000
Broadway center	Tacoma	\$400,000
Children's museum	Everett	\$200,000
Columbia city gallery	Seattle	\$110,000
Cornish College	Seattle	\$700,000
Friends of Gladish	Pullman	\$37,000
Historic cooper school	Seattle	\$32,000
Lincoln theatre	Mt. Vernon	\$110,000
Olympic theatre arts	Sequim	\$265,000
Orcas sculpture park	Eastsound	\$15,000
Pacific Northwest ballet	Bellevue	\$268,000
Pratt fine arts center	Seattle	\$700,000
Richland players theatre	Richland	\$51,000
S'Klallam longhouse	Kingston	\$200,000
Seattle art museum	Seattle	\$700,000
Squaxin Island museum	Shelton	\$100,000
Vashon allied arts	Vashon	\$80,000
Velocity dance center	Seattle	\$35,000
Western Washington center for the arts	Port Orchard	\$165,000
World kite museum	Long Beach	\$32,000
TOTAL		\$4,500,000

Appropriation:

State Building Construction Account—State	\$4,500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$16,000,000
TOTAL	\$20,500,000

NEW SECTION. Sec. 108. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT
 Community Economic Revitalization Board (CERB) (00-2-001)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the conditions and limitations in section 123, chapter 8, Laws of 2001 2nd sp. sess.

Reappropriation:

Public Facility Construction Loan Revolving Account—State.	\$4,871,748
Prior Biennia (Expenditures).	\$1,769,252
Future Biennia (Projected Costs).	\$0
TOTAL	\$6,641,000

NEW SECTION. Sec. 109. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT
Community Economic Revitalization (CERB) (02-4-003)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation must be used solely to provide loans to eligible local governments and grants to the extent permissible by law. The department shall ensure that all principal and interest payments from loans made on moneys from this account are paid into this account.

Reappropriation:

Public Facility Construction Loan Revolving Account—State.	\$4,431,000
Prior Biennia (Expenditures).	\$1,500,000
Future Biennia (Projected Costs).	\$0
TOTAL	\$5,931,000

NEW SECTION. Sec. 110. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT
Community Economic Revitalization Board (CERB) (04-4-008)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided solely for loans to local governments.

Appropriation:

Public Facility Construction Loan Revolving Account—State.	\$11,491,000
Prior Biennia (Expenditures).	\$0
Future Biennia (Projected Costs).	\$36,718,769
TOTAL	\$48,209,769

NEW SECTION. Sec. 111. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT
County Public Facility Construction (00-2-010)

Reappropriation:

Distressed County Facilities Construction Loan Account—State.	\$538,989
Prior Biennia (Expenditures).	\$3,461,011
Future Biennia (Projected Costs).	\$0
TOTAL	\$4,000,000

NEW SECTION. Sec. 112. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT
Cancer Research Facility Grant (01-S-005)

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

(1) The appropriation and reappropriation are provided as grants for equipment and facilities improvements for a prostate cancer research project at the University of Washington medical center and must be matched by an equal amount from nonstate sources.

(2) The appropriation in this section shall meet the requirements of section 151(1) of this act.

Reappropriation:

State Building Construction Account—State \$2,000,000

Appropriation:

State Building Construction Account—State \$1,000,000

Prior Biennia (Expenditures) \$0

Future Biennia (Projected Costs) \$0

TOTAL \$3,000,000

NEW SECTION. Sec. 113. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Public Works Trust Fund (01-H-001)

Reappropriation:

Public Works Assistance Account—State \$93,593,068

Prior Biennia (Expenditures) \$0

Future Biennia (Projected Costs) \$0

TOTAL \$93,593,068

NEW SECTION. Sec. 114. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Public Works Trust Fund (02-4-013)

Reappropriation:

Public Works Assistance Account—State \$184,479,943

Prior Biennia (Expenditures) \$103,893,068

Future Biennia (Projected Costs) \$0

TOTAL \$288,372,911

NEW SECTION. Sec. 115. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Public Works Trust Fund (04-4-001)

The appropriation in this section is subject to the following conditions and limitations: Expenditures of the appropriation shall comply with chapter 43.155 RCW.

Appropriation:

Public Works Assistance Account—State \$261,200,000

Prior Biennia (Expenditures) \$0

Future Biennia (Projected Costs) \$1,319,499,999

TOTAL \$1,580,699,999

NEW SECTION. Sec. 116. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT
 Fort Vancouver National Historic Reserve (01-S-002)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$1,987,248
Prior Biennia (Expenditures)	\$12,752
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,000,000

NEW SECTION. Sec. 117. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT
 Chewelah Peak Environmental Learning Center (01-S-003)

The appropriations in this section are subject to the following conditions and limitations: The appropriation in this section shall meet the requirements of section 151(1) of this act.

Reappropriation:

State Building Construction Account—State	\$22,221
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Appropriation:

State Building Construction Account—State	\$1,500,000
Prior Biennia (Expenditures)	\$1,977,779
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,500,000

NEW SECTION. Sec. 118. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT
 Fox Theater Project (01-S-006)

The appropriations in this section are subject to the following conditions and limitations: The appropriation in this section shall meet the requirements of section 151(1) of this act.

Reappropriation:

State Building Construction Account—State	\$688,006
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Appropriation:

State Building Construction Account—State	\$1,500,000
Prior Biennia (Expenditures)	\$1,311,994
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,500,000

NEW SECTION. Sec. 119. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT
 Des Moines Beach Park - Structure Relocation (01-S-010)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$246,875
Prior Biennia (Expenditures)	\$3,125
Future Biennia (Projected Costs)	\$0
TOTAL	\$250,000

NEW SECTION. Sec. 120. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Upper Kittitas County - Emergency Management Service Facility (01-S-012)

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

(1) Funds are provided as a matching grant for enhanced emergency services related to highway travel and incidental local needs. The funds shall be retained in allotment reserve until the office of financial management approves a plan submitted by the recipient organization for the generation of matching funds and the provision for emergency services needs on Interstate 90. The office of financial management shall identify the recipient entity or organization that is best suited to provide enhanced emergency services for the Cle Elum/I-90 region.

(2) The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$908,500
Prior Biennia (Expenditures)	\$11,500
Future Biennia (Projected Costs)	\$0
TOTAL	\$920,000

NEW SECTION. Sec. 121. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

West Central Community Center (01-S-016)

The appropriations in this section are subject to the following conditions and limitations: The appropriation in this section shall meet the requirements of section 151(1) of this act.

Reappropriation:

State Building Construction Account—State	\$25,431
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Appropriation:

State Building Construction Account—State	\$500,000
Prior Biennia (Expenditures)	\$74,569
Future Biennia (Projected Costs)	\$0
TOTAL	\$100,000

NEW SECTION. Sec. 122. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Milton Skate Park (01-H-016)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$115,537
Prior Biennia (Expenditures)	\$1,463
Future Biennia (Projected Costs)	\$0
TOTAL	\$117,000

NEW SECTION. Sec. 123. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Pierce County Fairgrounds (01-H-017)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$95,125
Prior Biennia (Expenditures)	\$54,875
Future Biennia (Projected Costs)	\$0
TOTAL	\$150,000

NEW SECTION. Sec. 124. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Coastal Erosion Grants (01-S-019)

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

(1) The reappropriation in this section is subject to the following conditions and limitations:

(a) Funds are provided for coastal erosion grants in southwest Washington in partnership with other state and federal funds. Grays Harbor county is the lead agency in the administration of the grants.

(b) The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

(2) The appropriation in this section is provided for coastal erosion grants in southeast Washington in partnership with other state and federal funds. Grays Harbor county is the lead agency in the administration of the grants.

Reappropriation:

State Building Construction Account—State	\$583,155
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Appropriation:

State Building Construction Account—State	\$750,000
Prior Biennia (Expenditures)	\$666,845
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,000,000

NEW SECTION. Sec. 125. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

City of Grandview Infrastructure Development (02-S-006)

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

(1) The reappropriation is provided for allocation by the department to the city of Grandview for infrastructure development, including but not limited to streets, water, sewer, and other utilities associated with the siting of a warehouse distribution center.

(2) The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$1,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,000,000

NEW SECTION. Sec. 126. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Local/Community Projects: Job Creation and Infrastructure Projects (02-S-005)

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

(1) The reappropriation shall support the projects as listed in section 202, chapter 238, Laws of 2002 as amended by section 901, chapter 10, Laws of 2003.

(2) The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$7,213,000
Prior Biennia (Expenditures)	\$10,000,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$17,213,000

NEW SECTION. Sec. 127. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Community Services Facilities Program (02-4-007)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of RCW 43.63A.125. The reappropriation shall support the projects in section 111, chapter 8, Laws of 2001 2nd sp. sess.

Reappropriation:

State Building Construction Account—State	\$1,814,000
Prior Biennia (Expenditures)	\$2,911,000
Future Biennia (Projected Costs)	\$0

TOTAL \$4,725,000

NEW SECTION. Sec. 128. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT
 Community Services Facilities Program (04-4-006)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is subject to the provisions of RCW 43.63A.125. The following projects are eligible for funding:

Projects	Location	Recommendation
Assistance league	Everett	\$400,000
Benton affordable housing	Richland	\$25,000
Boys and girls clubs/Pierce county	Tacoma	\$187,500
Boys and girls clubs/Thurston county	Olympia	\$102,175
Catholic community services	Seattle	\$400,000
Children's therapy center	Kent	\$250,000
Eritrean association	Seattle	\$346,000
First AME child/family center	Seattle	\$194,000
Girl scouts/Pacific peaks	DuPont	\$400,000
Hopelink	Carnation	\$201,521
Horizons	Sunnyside	\$175,000
Kent youth/family services	Kent	\$400,000
LIHI	Seattle	\$131,084
Lopez children's center	Lopez	\$220,000
Neighborhood House	Seattle	\$60,000
Opportunity council	Bellingham	\$400,000
Senior services/Seattle King county	Seattle	\$400,000
S'Klallam development fund	Kingston	\$69,000
Southeast Washington center for the deaf	Pasco	\$27,000
St. Anne's childcare center	Spokane	\$400,000
St. James family center	Cathlamet	\$18,000
Valley boys and girls club	Clarkston	\$400,000
Yelm community center	Yelm	\$400,000
YMCA/Snohomish county	Marysville	\$275,000
Youth Orion center	Seattle	\$50,000
 TOTAL		 \$5,931,280

Appropriation:

State Building Construction Account—State	\$5,931,280
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$16,000,000
TOTAL	\$21,931,280

NEW SECTION. Sec. 129. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Drinking Water Assistance Program (02-4-008)

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

(1) Funding from the state public works trust fund program shall be matched with new federal sources to improve the quality of drinking water in the state, and shall be used solely for projects that achieve the goals of the federal safe drinking water act.

(2) The department shall report to the appropriate committees of the legislature by January 1, 2004, on the progress of the program, including administrative and technical assistance procedures, the application process, and funding priorities.

Reappropriation:

Drinking Water Assistance Account—State	\$7,700,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$7,700,000

NEW SECTION. Sec. 130. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Drinking Water Assistance Account (04-4-002)

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

(1) Expenditures of the appropriation shall comply with RCW 70.119A.170.

(2)(a) The state building construction account appropriation is provided solely to provide assistance to counties, cities, and special purpose districts to identify, acquire, and rehabilitate public water systems that have water quality problems or have been allowed to deteriorate to a point where public health is an issue. Eligibility is confined to applicants that already own at least one group A public water system and that demonstrate a track record of sound drinking water utility management. Funds may be used for: Planning, design, and other preconstruction activities; system acquisition; and capital construction costs.

(b) The state building construction account appropriation must be jointly administered by the department of health, the public works board, and the department of community, trade, and economic development using the drinking water state revolving fund loan program as an administrative model. In order to expedite the use of these funds and minimize administration costs, this appropriation must be administered by guidance, rather than rule. Projects must generally be prioritized using the drinking water state revolving fund loan program criteria. All financing provided through this program must be in the form of grants that must partially cover project costs. The maximum grant to

any eligible entity may not exceed twenty-five percent of the funds allocated to this appropriation.

Appropriation:

Drinking Water Assistance Account—State	\$8,500,000
State Building Construction Account—State	\$4,000,000
Subtotal Appropriation	\$12,500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$32,400,000
TOTAL	\$44,900,000

NEW SECTION. Sec. 131. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Drinking Water SRF - Authorization to Use Loan Repayments (04-4-010)

The appropriation in this section is subject to the following conditions and limitations: Expenditures of the appropriation shall comply with RCW 70.119A.170.

Appropriation:

Drinking Water Assistance Account—State	\$11,200,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$11,200,000

NEW SECTION. Sec. 132. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Farmworker Housing Assistance (02-4-011)

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

- (1) The reappropriation is provided solely for facilities housing low-income migrant, seasonal, or temporary farmworkers.
- (2) It is the intent of the legislature that operation of the facilities built under this section be in compliance with 8 U.S.C. Sec. 1342.
- (3) The department shall minimize the amount of these funds that are utilized for staff and administrative purposes or other operational expenses.
- (4) The department shall work with the farmworker housing advisory committee to prioritize funding of projects to the areas of highest need.
- (5) Funding may also be provided, to the extent qualified projects are submitted, for health and safety projects.

Reappropriation:

State Building Construction Account—State	\$500,000
Prior Biennia (Expenditures)	\$7,500,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$8,000,000

NEW SECTION. Sec. 133. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Housing Assistance, Weatherization, and Affordable Housing (02-4-010)

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

(1) Meeting the conditions and limitations under section 117, chapter 8, Laws of 2001 2nd sp. sess. when combined with the prior biennial expenditures.

(2) The reappropriation in this section shall not be included in the annual funds available for determining the administrative costs authorized under RCW 43.185.050.

Reappropriation:

State Taxable Building Construction Account—State	\$22,000,000
Prior Biennia (Expenditures)	\$35,500,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$57,500,000

NEW SECTION. Sec. 134. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Housing Assistance, Weatherization, and Affordable Housing (04-4-003)

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

(1) At least \$9,000,000 of the appropriation is provided solely for weatherization administered through the energy matchmakers program.

(2) \$5,000,000 of the appropriation is provided solely to promote development of safe and affordable housing units for persons eligible for services from the division of developmental disabilities within the department of social and health services.

(3) \$2,000,000 of the appropriation is provided solely for grants to nonprofit organizations and public housing authorities for revolving loan, self-help housing programs for low and moderate income families.

(4) \$1,000,000 of the appropriation is provided solely for shelters, transitional housing, or other housing facilities for victims of domestic violence.

(5) \$8,000,000 of the appropriation is provided solely for facilities housing low-income migrant, seasonal, or temporary farmworkers. It is the intent of the legislature that operation of the facilities built under this section be in compliance with 8 U.S.C. Sec. 1342. The department shall minimize the amount of these funds that are utilized for staff and administrative purposes or other operational expenses. The department shall work with the farmworker housing advisory committee to prioritize funding of projects to the areas of highest need. Funding may also be provided, to the extent qualified projects are submitted, for health and safety projects.

(6) \$5,000,000 of the appropriation is provided solely for the development of emergency shelters and transitional housing opportunities for homeless families with children. The department shall minimize the amount of funds that are utilized for staff and administrative purposes or other operational expenses.

Appropriation:

State Taxable Building Construction Account—State	\$80,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$200,000,000
TOTAL	\$280,000,000

NEW SECTION. Sec. 135. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT
Lewis and Clark Confluence Project (04-2-954)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section shall meet the requirements of section 151(1) of this act.

Appropriation:

State Building Construction Account—State	\$3,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,000,000

NEW SECTION. Sec. 136. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT
Seattle Heart Alliance (at Swedish Hospital) (04-4-960)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section shall meet the requirements of section 151(1) of this act.

Appropriation:

State Building Construction Account—State	\$4,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,000,000

NEW SECTION. Sec. 137. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT
McCaw Opera House (04-4-954)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section shall meet the requirements of section 151(1) of this act.

Appropriation:

State Building Construction Account—State	\$1,500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,500,000

NEW SECTION. Sec. 138. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT
Greenbank Farm (04-4-950)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section shall meet the requirements of section 151(1) of this act.

Appropriation:

State Building Construction Account—State	\$1,500,000
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Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL.....	\$1,500,000

NEW SECTION. Sec. 139. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT
 Japanese American Memorial (04-4-951)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section shall meet the requirements of section 151(1) of this act.

Appropriation:

State Building Construction Account—State	\$1,500,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL.....	\$1,500,000

NEW SECTION. Sec. 140. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT
 Wing Luke Asian Art Museum (04-4-952)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section shall meet the requirements of section 151(1) of this act.

Appropriation:

State Building Construction Account—State	\$1,500,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL.....	\$1,500,000

NEW SECTION. Sec. 141. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT
 Bremerton Waterfront Project (04-4-953)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section shall meet the requirements of section 151(1) of this act.

Appropriation:

State Building Construction Account—State	\$1,000,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL.....	\$1,000,000

NEW SECTION. Sec. 142. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT
 PBS Digital Upgrade (04-4-958)

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

(1) The appropriation in this section shall meet the requirements of section 151(1) of this act.

(2) \$350,000 is provided to public television station KYVE for the costs to convert to digital transmission capability and the upgrading and replacement of equipment, studio facilities, and contents.

(3) The remaining appropriation is available for public television stations based outside central Puget Sound metropolitan areas.

Appropriation:

State Building Construction Account—State	\$700,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$700,000

NEW SECTION. Sec. 143. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT
 Pine Lake Park Phase II (04-4-956)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section shall meet the requirements of section 151(1) of this act.

Appropriation:

State Building Construction Account—State	\$600,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$600,000

NEW SECTION. Sec. 144. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT
 Bellevue Open Space Enhancement (04-4-955)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section shall meet the requirements of section 151(1) of this act.

Appropriation:

State Building Construction Account—State	\$750,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$750,000

NEW SECTION. Sec. 145. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT
 William Factory Business Incubator (04-4-957)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section shall meet the requirements of section 151(1) of this act.

Appropriation:

State Building Construction Account—State	\$560,000
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Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$560,000

NEW SECTION. Sec. 146. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

City of Woodland Infrastructure Development (04-4-959)

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

(1) The appropriation in this section shall meet the requirements of section 151(1) of this act.

(2) The appropriation is provided for allocation by the department to the city of Woodland for infrastructure development, including drainage improvements and a dike access road.

Appropriation:

State Building Construction Account—State	\$300,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$300,000

NEW SECTION. Sec. 147. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Yakima Ballfields (04-2-952)

The appropriation in this section is subject to the following conditions and limitations: \$120,000 of the appropriation is provided solely to Yakima Valley Community College for the purchase of Noel field from the city of Yakima, and \$230,000 is provided solely to the city of Yakima to replace and relocate ballfields. It is the intention of the legislature that no funds be distributed to the city of Yakima until the transfer of the Noel field property is complete.

Appropriation:

State Building Construction Account—State	\$350,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$350,000

***NEW SECTION. Sec. 148. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT**

Seventh Street Theatre (90-2-008)

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

(1) The reappropriation in this section is subject to the conditions and limitations of section 906(2)(b) of this act. All funds appropriated in this section must be matched by nonstate sources.

(2) The appropriation in this section shall meet the requirements of section 151(1) of this act.

Reappropriation:

State Building Construction Account—State	\$51,110
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Appropriation:

State Building Construction Account—State	\$100,000
Prior Biennia (Expenditures)	\$78,890
Future Biennia (Projected Costs)	\$0
TOTAL	\$230,000

*Sec. 148 was partially vetoed. See message at end of chapter.

NEW SECTION. Sec. 149. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Housing for Homeless Families with Children (02-4-012)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation in this section is provided solely for the development of emergency shelters and transitional housing opportunities for homeless families with children. The department shall minimize the amount of funds that are utilized for staff and administrative purposes or other operational expenses.

Reappropriation:

State Building Construction Account—State	\$4,000,000
Prior Biennia (Expenditures)	\$1,000,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,000,000

NEW SECTION. Sec. 150. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Highline School District Aircraft Noise Mitigation (03-H-001)

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

(1) The reappropriation is subject to the conditions and limitations in section 205, chapter 205, Laws of 2002.

(2)(a) The appropriation in this section is subject to the Highline school district, the port of Seattle, and the federal aviation administration each matching this appropriation.

(b) This appropriation does not commit the state to make future appropriations for this program.

Reappropriation:

State Building Construction Account—State	\$600,000
Education Construction Account—State	\$4,400,000
Subtotal Reappropriation	\$5,000,000

Appropriation:

State Building Construction Account—State	\$10,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$10,000,000

NEW SECTION. Sec. 151. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Local/Community Projects (04-4-011)

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

(1) The projects must comply with RCW 43.63A.125(2)(c) and other standard requirements for community projects administered by the department.

(2) The appropriation is provided for the following list of projects:

Local Community Project List	Location	Amount
Art Crate field	Bethel	\$500,000
Asia Pacific cultural center	Tacoma	\$100,000
Asotin aquatic center	Clarkston	\$500,000
Auburn YMCA	Auburn	\$250,000
Burke museum	Seattle	\$500,000
Capital arts theater and sculpture garden	Olympia	\$250,000
Capitol theater	Yakima	\$500,000
Chinese reconciliation project	Tacoma	\$300,000
Clark lake park	Kent	\$400,000
Colman school	Seattle	\$300,000
Crossroads community center	Bellevue	\$500,000
Eastside heritage center	Bellevue	\$200,000
Eatonville city projects	Eatonville	\$150,000
Edgewood sewer	Edgewood	\$100,000
Edmonds center for the arts	Edmonds	\$500,000
Farmers market and maritime park	Bellingham	\$500,000
Firstenburg community center	Vancouver	\$500,000
Former capitol historical marker	Olympia	\$2,000
Friends of the falls/Great Gorge park	Spokane	\$250,000
Frontier park	Pierce county	\$165,000
GAR cemetery	Seattle	\$5,000
Graham fire district emergency services center	Graham	\$150,000
Grandmother's hill	Tukwila	\$300,000
Highline historical society	Highline	\$300,000
Historical cabins project	Federal Way	\$106,000
Hugs foundation	Raymond	\$21,500
Museum of flight - WWI and WWII	Seattle	\$500,000
Naval museum	Bremerton	\$500,000
New Phoebe house	Tacoma	\$25,000

Northwest orthopaedic institute	Tacoma	\$200,000
Paramount theater	Seattle	\$250,000
Rainier historical museum/Community center	Rainier	\$20,000
Ritzville public development authority	Ritzville	\$50,000
Seahurst ELC	Burien	\$100,000
South Hill community park	Pierce county	\$250,000
South Wenatchee family services center	Wenatchee	\$400,000
Stonerose interpretive center	Republic	\$8,000
Sweetwater creek restoration	Hood Canal	\$500,000
Tacoma seawall	Tacoma	\$250,000
Thyme patch park	Seattle	\$5,000
ToscoSports complex	Ferndale	\$500,000
Ustalady beach acquisition	Island county	\$135,000
Veterans memorial museum	Chehalis	\$255,000
West Hylebos state park	Federal Way	\$250,000
White Center apprenticeship	White Center	\$250,000
Woodway wildlife reserve	Woodway	\$300,000
Youth development center	Federal Way	\$100,000
TOTAL		\$12,197,500

Appropriation:

State Building Construction Account—State	\$12,197,500
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$12,197,500

NEW SECTION. Sec. 152. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT
 State Games (04-4-850)

Appropriation:

State Building Construction Account—State	\$200,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$200,000

NEW SECTION. Sec. 153. FOR THE PUBLIC DISCLOSURE COMMISSION

Infrastructure Security/Disaster Recovery Systems

The appropriation in this section is subject to the following conditions and limitations: The purpose of this appropriation is to develop a colocation facility to house infrastructure security/disaster recovery systems that will provide redundant fault tolerant capabilities in the event of natural or man-made disasters. The public disclosure commission shall consult with the department of information services in acquiring a location to house redundant servers and network infrastructure. The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Appropriation:

State Building Construction Account—State	\$270,172
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$270,172

NEW SECTION. Sec. 154. FOR THE OFFICE OF FINANCIAL MANAGEMENT

Merrill Hall Fire Repairs - Horticulture Building (01-H-020)

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

(1) In addition to the funds provided in this section, the University of Washington may utilize appropriated funds for minor works to address emergent needs for Merrill hall.

(2) The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$3,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,000,000

NEW SECTION. Sec. 155. FOR THE OFFICE OF FINANCIAL MANAGEMENT

Budget System Improvements (02-1-004)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the following conditions and limitations in section 147, chapter 8, Laws of 2001 2nd sp. sess.

Reappropriation:

State Building Construction Account—State	\$141,000
Prior Biennia (Expenditures)	\$59,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$200,000

***NEW SECTION. Sec. 156. FOR THE OFFICE OF FINANCIAL MANAGEMENT**

Capital Monitoring (04-2-028)

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

(1) The office of financial management shall review each agency request for project funding for inclusion in the 2004 supplemental capital budget and the 2005-07 capital budget with particular emphasis on major projects to ensure that the amount requested by the agency is appropriate for predesign, design, and construction, depending on the phase of the project being requested. The office of financial management shall pay particular attention to: (a) Whether the construction phase of the project is consistent with the predesign and design when applicable; (b) that the budgeted amount requested is at an appropriate level for the various components that make up the cost of the project such as project management; (c) that standard measurements such as cost per square foot are reasonable; and (d) that any equipment related to the project is an appropriate capital expenditure. The office of financial management may seek assistance from the department of general administration.

(2) The office of financial management shall consult with state agencies, higher education institutions, and the legislature and recommend criteria for funding equipment in the capital budget. This recommendation shall be made to the legislative fiscal committees by September 1, 2003.

(3) \$150,000 of this appropriation shall be used to conduct a study of the realignment of military forces and alternative uses of the land and facilities currently used by the Washington State military department readiness centers and armories for the Washington army national guard.

Appropriation:

State Building Construction Account—State	\$150,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$150,000

*Sec. 156 was partially vetoed. See message at end of chapter.

NEW SECTION. Sec. 157. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

East Plaza Repairs (96-1-002)

Reappropriation:

State Vehicle Parking Account—State	\$18,000,000
Prior Biennia (Expenditures)	\$23,567,200
Future Biennia (Projected Costs)	\$12,425,000
TOTAL	\$53,992,200

NEW SECTION. Sec. 158. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Office Building Two Rehabilitation (98-1-007)

Reappropriation:

Thurston County Capital Facilities Account—State	\$3,771,000
Prior Biennia (Expenditures)	\$11,629,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$15,400,000

NEW SECTION. Sec. 159. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Transportation Building Preservation (98-1-008)

Reappropriation:

Thurston County Capital Facilities Account—State	\$1,001,000
Prior Biennia (Expenditures)	\$1,964,065
Future Biennia (Projected Costs)	\$19,090,000
TOTAL	\$22,055,065

NEW SECTION. Sec. 160. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Heritage Park/Capitol Lake (00-1-007)

Reappropriation:

State Building Construction Account—State	\$405,000
Prior Biennia (Expenditures)	\$1,567,700
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,972,700

***NEW SECTION. Sec. 161. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

Heritage Park (01-H-004)

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

(1) This appropriation shall be used to complete the northeast sector of Heritage park, the area east of Capitol lake and north of the Burlington Northern-Santa Fe railroad tracks, and the hillside located north of the temple of justice.

(2) The department shall give priority to developing the park so that underground utilities are installed, topsoil laid, and grass planted in the northeast sector. No funds are to be used to demolish the existing restroom/storage facility or to build a new facility.

Reappropriation:

Capitol Building Construction Account—State	\$976,000
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Appropriation:

Thurston County Capital Facilities Account—State	\$500,000
Prior Biennia (Expenditures)	\$14,559,774
Future Biennia (Projected Costs)	\$0
TOTAL	\$16,035,774

*Sec. 161 was partially vetoed. See message at end of chapter.

NEW SECTION. Sec. 162. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Legislative Building: Rehabilitation and Capital Addition (01-1-008)

The appropriations in this section are subject to the following conditions and limitations: The reappropriation in this section is subject to the conditions and limitations of section 109, chapter 238, Laws of 2002 and section 904, chapter 10, Laws of 2003.

Reappropriation:

Capital Historic District Construction	
Account—State	\$68,450,000
State Building Construction Account—State	\$6,000,000
Subtotal Reappropriation	\$74,450,000

Appropriation:

Thurston County Capital Facilities Account—State	\$2,300,000
Prior Biennia (Expenditures)	\$26,031,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$102,781,000

NEW SECTION. Sec. 163. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Capitol Campus: Infrastructure Preservation (02-1-003)

Reappropriation:

State Building Construction Account—State	\$901,000
Prior Biennia (Expenditures)	\$849,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,750,000

NEW SECTION. Sec. 164. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

North Cascades Gateway Center Minor Works (02-1-004)

Reappropriation:

State Building Construction Account—State	\$362,000
Prior Biennia (Expenditures)	\$488,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$850,000

NEW SECTION. Sec. 165. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Thurston County Facilities: Preservation (02-1-002)

Reappropriation:

Capitol Building Construction Account—State	\$518,000
State Building Construction Account—State	\$1,466,000
Subtotal Reappropriation	\$1,984,000
Prior Biennia (Expenditures)	\$14,559,774
Future Biennia (Projected Costs)	\$0
TOTAL	\$16,543,774

NEW SECTION. Sec. 166. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Job Creation and Infrastructure Projects (03-1-001)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$210,000
Prior Biennia (Expenditures)	\$540,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$750,000

NEW SECTION. Sec. 167. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Minor Works - Infrastructure Preservation: Capitol Campus (04-1-003)

The appropriation in this section is subject to the following conditions and limitations: This appropriation shall not be used for studies.

Appropriation:

Thurston County Capital Facilities Account—State	\$2,100,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,100,000

NEW SECTION. Sec. 168. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Emergency Repairs (04-1-001)

The appropriation in this section is subject to the following conditions and limitations: The appropriation shall only be used for unanticipated building or infrastructure repairs necessary for the protection of capital assets and protection of health or safety. The legislature does not intend for this appropriation to be used for routine maintenance.

Appropriation:

Thurston County Capital Facilities Account—State	\$1,300,000
State Building Construction Account—State	\$300,000
Subtotal Appropriation	\$1,600,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,600,000

NEW SECTION. Sec. 169. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Engineering and Architectural Services (04-2-014)

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

(1) The appropriation in this section shall be used to provide project management services to state agencies as required by RCW 43.19.450 that are essential and mandated activities defined as core services and are included in the

engineering and architectural services' responsibilities and task list for general public works projects of normal complexity. The general public works projects included are all those financed by the state capital budget for the biennium ending June 30, 2005, with individual total project values up to \$20 million.

(2) The department may negotiate agreements with agencies for additional fees to manage projects financed by financial contracts, other alternative financing, projects with a total value greater than \$20 million, or for the nonstate funded portion of projects with mixed funding sources.

(3) The department shall review each community and technical college request and the requests of other client agencies for funding any project over \$2.5 million for inclusion in the 2004 supplemental capital budget and the 2005-07 capital budget to ensure that the amount requested by the agency is appropriate for predesign, design, and construction, depending on the phase of the project being requested. The department shall pay particular attention: (a) That the budgeted amount requested is at an appropriate level for the various components that make up the cost of the project such as project management; and (b) that standard measurements such as cost per square foot are reasonable. The department shall also assist the office of financial management with review of other agency projects as requested.

Appropriation:

Charitable, Educational, Penal, and Reformatory	
Institutions Account—State	\$140,000
State Building Construction Account—State	\$6,009,000
Thurston County Capital Facilities Account—State	\$3,437,000
Subtotal Appropriation	\$9,586,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$9,586,000

NEW SECTION. Sec. 170. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Historic Buildings - Exteriors Preservation (04-1-012)

The appropriation in this section is subject to the following conditions and limitations: This appropriation is for the sole purpose of capital projects on the capitol campus that correct immediate restoration deficiencies. It does not include survey, planning, or interior work.

Appropriation:

State Building Construction Account—State	\$1,475,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$11,600,000
TOTAL	\$13,075,000

***NEW SECTION. Sec. 171. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

State Capitol Master Plan Update (04-2-002)

The appropriation in this section is subject to the following eonditions and limitations: The department shall update the state capital master plan. The

department and the insurance commissioner shall revise their agreement for the department to study constructing a new building on the capitol campus to house the insurance commissioner and others and incorporate that study into the state master plan update. The \$100,000 the insurance commissioner is providing for that study shall be used for the state capital master plan update under this section.

Appropriation:

Thurston County Capital Facilities Account—State	\$200,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$200,000

*Sec. 171 was partially vetoed. See message at end of chapter.

***NEW SECTION. Sec. 172. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

Minor Works - Facility Preservation: Statewide (04-1-004)

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

(1) The purpose of this appropriation is to address minor works projects under one million dollars total project cost, regardless of whether the project is completed in one biennia.

(2) The appropriation shall not be used for studies, surveys, or carpet replacement.

Appropriation:

State Vehicle Parking Account—State	\$220,000
Thurston County Capital Facilities Account—State	\$2,055,000
General Administration Service Account—State	\$3,270,000
Subtotal Appropriation	\$5,545,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,545,000

*Sec. 172 was partially vetoed. See message at end of chapter.

NEW SECTION. Sec. 173. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Legislative Building Security (04-2-950)

Appropriation:

Thurston County Capital Facilities Account—State	\$1,179,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,179,000

NEW SECTION. Sec. 174. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Legislative Building Space Use Changes (04-1-951)

Appropriation:

State Building Construction Account—State	\$1,570,000
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Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,570,000

NEW SECTION. Sec. 175. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Cherberg Building: Predesign (04-2-951)

Appropriation:

Thurston County Capital Facilities Account—State	\$600,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$600,000

NEW SECTION. Sec. 176. FOR THE MILITARY DEPARTMENT

Bremerton Readiness Center (02-2-004)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the conditions and limitations in section 183, chapter 8, Laws of 2001 2nd sp. sess.

Reappropriation:

General Fund—Federal	\$5,100,000
State Building Construction Account—State	\$5,800,000
Subtotal Reappropriation	\$10,900,000
Prior Biennia (Expenditures)	\$923,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$11,823,000

NEW SECTION. Sec. 177. FOR THE MILITARY DEPARTMENT

Combined Support Maintenance Shop (02-2-011)

Reappropriation:

General Fund—Federal	\$1,000,000
Prior Biennia (Expenditures)	\$1,281,000
Future Biennia (Projected Costs)	\$26,544,000
TOTAL	\$28,825,000

NEW SECTION. Sec. 178. FOR THE MILITARY DEPARTMENT

Minor Works to Support Federal Construction Projects (02-1-001)

Reappropriation:

General Fund—Federal	\$5,300,000
State Building Construction Account—State	\$1,700,000
Subtotal Reappropriation	\$7,000,000
Prior Biennia (Expenditures)	\$5,525,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$12,525,000

NEW SECTION. Sec. 179. FOR THE MILITARY DEPARTMENT

Energy Management Control Systems (04-2-006)

Appropriation:

State Building Construction Account—State	\$365,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$365,000

NEW SECTION. Sec. 180. FOR THE MILITARY DEPARTMENT

Preservation Projects - Statewide (02-1-006)

Reappropriation:

State Building Construction Account—State	\$250,000
Prior Biennia (Expenditures)	\$235,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$485,000

NEW SECTION. Sec. 181. FOR THE MILITARY DEPARTMENT

Minor Works - Preservation (04-1-001)

The appropriation in this section is subject to the following conditions and limitations: The purpose of this appropriation is to correct deficiencies to state-owned facilities and does not include parking lot repairs or paving.

Appropriation:

State Building Construction Account—State	\$1,113,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,113,000

NEW SECTION. Sec. 182. FOR THE MILITARY DEPARTMENT

Job Creation and Infrastructure Projects (03-1-001)

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

- (1) The reappropriation shall support the projects as listed in section 207, chapter 238, Laws of 2002 2nd sp. sess.
- (2) The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$1,000,000
Prior Biennia (Expenditures)	\$1,000,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,000,000

NEW SECTION. Sec. 183. FOR THE MILITARY DEPARTMENT

Communication Security - Emergency Management Division-Building No. 20 (04-1-002)

Appropriation:

General Fund—Federal	\$1,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,000,000

NEW SECTION. Sec. 184. FOR THE MILITARY DEPARTMENT
Minor Works to Support Federal Construction Projects (04-I-003)

Appropriation:

General Fund—Federal	\$11,150,000
State Building Construction Account—State	\$2,798,000
Subtotal Appropriation	\$13,948,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$13,948,000

NEW SECTION. Sec. 185. FOR THE MILITARY DEPARTMENT
Infrastructure Savings (04-I-850)

The appropriation in this section is subject to the following conditions and limitations: Projects that are completed in accordance with section 915 of this act may have their remaining funds transferred to this appropriation for other preservation projects approved by the office of financial management.

Appropriation:

State Building Construction Account—State	\$1
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1

NEW SECTION. Sec. 186. FOR THE MILITARY DEPARTMENT
Spokane Readiness Center (04-2-003)

The appropriations in this section are subject to the following conditions and limitations: In addition to the annual project progress reporting requirement of RCW 43.88.160(3), the department shall file quarterly project progress reports with the office of financial management. These reports must contain local, state, and federal funding reconciliation and balance sheets for this project and must detail any federal intentions on future readiness center projects.

Appropriation:

General Fund—Federal	\$8,800,000
State Building Construction Account—State	\$4,768,000
Subtotal Appropriation	\$13,568,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$13,568,000

NEW SECTION. Sec. 187. FOR THE MILITARY DEPARTMENT
Orting School District Safety Bridge Study (04-4-951)

The appropriation in this section is subject to the following conditions and limitations: This appropriation is provided solely for the department to conduct a study of the feasibility of constructing a bridge to allow safe evacuation of the Orting school district to high ground in the event of natural disasters related to Mt. Rainier. The study shall include the estimated cost of bridge construction and under what circumstances the bridge is expected to allow safe evacuation.

The department shall report to the Orting school board, the office of financial management, and the legislature by January 1, 2004.

Appropriation:

State Building Construction Account—State	\$250,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL.....	\$250,000

NEW SECTION. Sec. 188. FOR THE STATE CONVENTION AND TRADE CENTER

Washington State Convention and Trade Center Omnibus Minor Works (04-I-002)

Appropriation:

State Convention and Trade Center Account—State	\$2,045,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL.....	\$2,045,000

**PART 2
HUMAN SERVICES**

NEW SECTION. Sec. 201. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Echo Glen Children's Center - Site: Infrastructure Improvements (96-2-229)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$1,100,000
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Appropriation:

Charitable, Educational, Penal, and Reformatory Institutions Account—State	\$925,000
Prior Biennia (Expenditures).....	\$2,769,607
Future Biennia (Projected Costs).....	\$0
TOTAL.....	\$4,794,607

NEW SECTION. Sec. 202. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Green Hill School Redevelopment: 416 Bed Institution (96-2-230)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$300,000
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Prior Biennia (Expenditures)	\$50,177,721
Future Biennia (Projected Costs)	\$0
TOTAL	\$50,477,721

NEW SECTION. Sec. 203. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Echo Glen Children’s Center - Vocational Education: Construction (98-2-211)

The reappropriation in this section is subject to the following conditions and limitations: To the extent that the department realizes project savings, funds reappropriated in this section may be transferred to infrastructure savings or used for a facilities condition assessment and preservation survey.

Reappropriation:

State Building Construction Account—State	\$150,000
Prior Biennia (Expenditures)	\$3,236,667
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,386,667

NEW SECTION. Sec. 204. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Western State Hospital: Legal Offender Unit (98-2-052)

The appropriations in this section are subject to the following conditions and limitations: The purpose of the appropriations is to complete construction, renovate wards, and demolish North Hall.

Reappropriation:

State Building Construction Account—State	\$2,590,000
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Appropriation:

State Building Construction Account—State	\$1,000,000
Prior Biennia (Expenditures)	\$47,701,751
Future Biennia (Projected Costs)	\$0
TOTAL	\$51,294,341

NEW SECTION. Sec. 205. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Rainier School - Laundry: Equipment (00-1-001)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$345,000
Prior Biennia (Expenditures)	\$105,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$450,000

NEW SECTION. Sec. 206. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Child Study and Treatment Center - Cottages: Modifications, Phase 3 (00-1-015)

Reappropriation:

State Building Construction Account—State \$100,000

Appropriation:

State Building Construction Account—State \$1,800,000

Prior Biennia (Expenditures) \$2,024,776

Future Biennia (Projected Costs) \$0

TOTAL \$3,924,776

NEW SECTION. Sec. 207. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Eastern State Hospital: Campus Renovation, Phase 5 (00-2-002)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State \$500,000

Prior Biennia (Expenditures) \$9,600,000

Future Biennia (Projected Costs) \$0

TOTAL \$10,100,000

NEW SECTION. Sec. 208. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Echo Glen Children's Center - Eleven Cottages: Renovation (00-1-041)

Reappropriation:

State Building Construction Account—State \$250,000

Appropriation:

State Building Construction Account—State \$5,490,000

Prior Biennia (Expenditures) \$525,000

Future Biennia (Projected Costs) \$0

TOTAL \$6,265,000

NEW SECTION. Sec. 209. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Special Commitment Center - Secure Facility: Construction, Phase 3 (00-2-001)

The appropriations in this section are subject to the following conditions and limitations: To the extent that the department projects savings and efficiencies through design or scope changes, funds appropriated in this section may be transferred to minor works—health, safety, and code requirements (04-1-111) for expenditure for minor works projects.

Reappropriation:

State Building Construction Account—State \$24,000,000

Appropriation:

State Building Construction Account—State \$11,158,212

Prior Biennia (Expenditures)	\$23,665,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$58,823,212

NEW SECTION. Sec. 210. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Eastern State Hospital - Activity Therapy Building: Renovation (02-1-060)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$70,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$70,000

NEW SECTION. Sec. 211. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Special Commitment Center - Less Restrictive Alternative: New Building (02-2-075)

The reappropriation in this section is subject to the following conditions and limitations: To the extent that the department projects savings and efficiencies through design or scope changes, funds appropriated in this section may be transferred to minor works—health, safety, and code requirements (04-1-111) for expenditure for minor works projects.

Reappropriation:

State Building Construction Account—State	\$75,000
Prior Biennia (Expenditures)	\$3,132,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,207,000

NEW SECTION. Sec. 212. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Special Commitment Center - Regional SCTF: New 12 Bed Facility (04-2-502)

Appropriation:

State Building Construction Account—State	\$3,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,000,000

NEW SECTION. Sec. 213. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Child Care Facilities for Students and State Employees (01-S-003)

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

(1) Funds are provided to recapitalize child care facilities grant programs and provide for administration of the program. These funds may be used by state agencies and higher education institutions to provide child care facilities for employees and students. Grants to state agencies will be provided and administered per chapter 41.04 RCW. Grants for higher education child care facilities will be transferred into accounts administered through chapter 28B.135 RCW.

(2) The department may expend up to \$95,000 in the 2003-2005 biennium for administration and contract management.

(3) The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$3,500,000
Prior Biennia (Expenditures)	\$500,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,000,000

NEW SECTION, Sec. 214. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Infrastructure Project: Savings (02-1-053)

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

(1) The reappropriation shall be spent solely on projects or project elements in conformance with section 915 of this act.

(2) The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$340,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$340,000

***NEW SECTION, Sec. 215. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

Statewide: Omnibus Preservation Projects (02-1-069)

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

(1) No expenditures from the reappropriation should be made for developmental disabilities facilities subject to closure.

(2) \$340,000 of the state building construction account—state reappropriation is to be expended on the Oakridge group home for miscellaneous repairs and is contingent upon the office of financial management transferring that amount from infrastructure project: Savings (02-1-053) to this appropriation by June 30, 2003.

(3) The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

Charitable, Educational, Penal, and Reformatory	
Institutions Account—State	\$1,450,000
State Building Construction Account—State	\$2,385,000
Subtotal Reappropriation	\$3,835,000
Prior Biennia (Expenditures)	\$2,005,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,840,000

*Sec. 215 was partially vetoed. See message at end of chapter.

NEW SECTION. Sec. 216. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Statewide: Omnibus Programmatic Projects (02-2-070)

The reappropriations in this section are subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

Charitable, Educational, Penal, and Reformatory	
Institutions Account—State	\$385,000
State Building Construction Account—State	\$425,000
Subtotal Reappropriation	\$810,000
Prior Biennia (Expenditures)	\$190,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,000,000

NEW SECTION. Sec. 217. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Western State Hospital - Power Plant: Revisions/Smokestack Removal (03-1-012)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$1,000,000
Prior Biennia (Expenditures)	\$80,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,080,000

NEW SECTION. Sec. 218. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Department of Social and Health Services: Capital Project Management (04-1-110)

Appropriation:

Charitable, Educational, Penal, and Reformatory	
Institutions Account—State	\$2,000,000
Prior Biennia (Expenditures)	\$0

Future Biennia (Projected Costs)	\$0
TOTAL	\$2,000,000

NEW SECTION. Sec. 219. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Juvenile Rehabilitation - Acute Mental Health Unit: New Facility (04-2-203)

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

(1) The purpose of this appropriation is to complete a predesign and siting study on existing state owned property that addresses the need for a functional program, operating efficiencies, and the optimum size of the program based on forecasted population.

(2) This study shall be integrated with juvenile rehabilitation administration master planning efforts.

Appropriation:

State Building Construction Account—State	\$200,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$7,502,000
TOTAL	\$7,702,000

NEW SECTION. Sec. 220. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Rainier School: Wastewater Treatment (Buckley) (04-1-950)

Appropriation:

Charitable, Educational, Penal, and Reformatory Institutions Account—State	\$250,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$250,000

NEW SECTION. Sec. 221. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Maple Lane School - Steam Plant and Tunnels: Upgrade (04-1-207)

Appropriation:

State Building Construction Account—State	\$2,650,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,650,000

NEW SECTION. Sec. 222. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Minor Works - Program: Mental Health (04-2-365)

Appropriation:

State Building Construction Account—State	\$750,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0

TOTAL\$750,000

NEW SECTION. Sec. 223. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Minor Works - Health, Safety, and Code Requirements (04-1-111)

Appropriation:

State Building Construction Account—State \$1,500,000
Prior Biennia (Expenditures) \$0
Future Biennia (Projected Costs)..... \$0
TOTAL \$1,500,000

NEW SECTION. Sec. 224. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Minor Works - Facility Preservation (04-1-112)

Appropriation:

State Building Construction Account—State \$4,000,000
Prior Biennia (Expenditures) \$0
Future Biennia (Projected Costs)..... \$0
TOTAL \$4,000,000

NEW SECTION. Sec. 225. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Minor Works - Infrastructure Preservation (04-1-113)

Appropriation:

State Building Construction Account—State \$1,500,000
Prior Biennia (Expenditures) \$0
Future Biennia (Projected Costs)..... \$0
TOTAL \$1,500,000

NEW SECTION. Sec. 226. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Statewide - Emergency Repairs (04-1-116)

The appropriation in this section is subject to the following conditions and limitations: The appropriation shall only be used for unanticipated building or infrastructure repairs necessary for the protection of capital assets or protection of health or safety. The legislature does not intend for this appropriation to be used for routine maintenance.

Appropriation:

State Building Construction Account—State \$750,000
Prior Biennia (Expenditures) \$0
Future Biennia (Projected Costs)..... \$0
TOTAL \$750,000

***NEW SECTION. Sec. 227. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

Statewide - Hazards Abatement and Demolition (04-1-119)

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

(1) No more than \$50,000 of this appropriation shall be used for hazardous materials surveys.

(2) *The remainder of the appropriation shall be used to demolish abandoned structures at facilities other than those managed by the division of developmental disabilities as approved by the office of financial management.*

Appropriation:

State Building Construction Account—State	\$250,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$250,000

*Sec. 227 was partially vetoed. See message at end of chapter.

NEW SECTION. Sec. 228. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Statewide: Facilities Condition Assessment and Preservation Plan (04-1-120)

Appropriation:

Charitable, Educational, Penal, and Reformatory Institutions Account—State	\$100,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$100,000

***NEW SECTION. Sec. 229. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

RHC Consolidation (04-1-958)

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

(1) *By September 15, 2003, the department shall submit a project request report planning document to the office of financial management and legislative fiscal committees and appropriate policy committees. The report shall outline and identify the projects, scope, schedule, and preliminary cost estimates for capital projects related to residential habilitation center consolidation within this appropriation for the 2003-05 biennium. Future project costs shall also be addressed that enable the department to complete consolidation during the 2005-07 biennium. Priority shall be given to infrastructure repairs and cottage renovations. The budget for 2003-05 is set at \$6,000,000 and shall not include demolition of structures.*

(2) *Up to \$50,000 of this appropriation may be used to expedite the completion of the planning document and to ensure accurate cost estimates by hiring consultants.*

Appropriation:

State Building Construction Account—State	\$2,000,000
Charitable, Educational, Penal and Reformatory Institutions Account—State	\$4,000,000

Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$6,000,000

*Sec. 229 was partially vetoed. See message at end of chapter.

NEW SECTION. Sec. 230. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Infrastructure Savings (04-1-850)

The appropriation in this section is subject to the following conditions and limitations: Projects that are completed in accordance with section 915 of this act may have their remaining funds transferred to this appropriation for other preservation projects approved by the office of financial management.

Appropriation:

State Building Construction Account—State	\$1
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1

Sec. 231. 2001 2nd sp.s. c 8 s 209 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Eastern State Hospital: Legal Offender Unit (98-2-002)

The reappropriation in this section is subject to the conditions and limitations of section 906 of this act.

Reappropriation:

State Building Construction Account—State	(\$2,365,463)	<u>\$250,000</u>
Prior Biennia (Expenditures)	\$15,330,537	
Future Biennia (Projected Costs)	\$0	
TOTAL	(\$17,696,000)	<u>\$15,580,537</u>

***NEW SECTION. Sec. 232. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

Juvenile Rehabilitation Administration Master Planning Updates (04-1-957)

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

- (1) The appropriation is provided solely for the juvenile rehabilitation administration to contract for master planning services.
- (2) The department shall contract for planning services to include, but not necessarily be limited to, an update to presently existing plans, and shall consider system-wide facility capacity and infrastructure condition and capacity; security needs; specialized populations, including acute mental health needs; and efficiencies, based on current population growth. The study shall investigate the possibility of lesser or greater growth than currently forecasted.
- (3) *The study scope is subject to review and approval by the office of financial management and the legislative fiscal capital and appropriate policy*

committees. The office of financial management shall coordinate the review of the study scope.

(4) The juvenile rehabilitation administration shall report to the office of financial management and the legislature with initial information about the process and demographic data to be used in planning by December 1, 2003. The final study is due to the office of financial management and fiscal capital and policy committees no later than September 1, 2004.

Appropriation:

State Building Construction Account—State	\$200,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$200,000

*Sec. 232 was partially vetoed. See message at end of chapter.

NEW SECTION. Sec. 233. FOR THE DEPARTMENT OF HEALTH
Drinking Water Assistance Program (02-4-004)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is provided solely for an interagency agreement with the department of community, trade, and economic development to make, in cooperation with the public works board, loans to local governments and public water systems for projects and activities to protect and improve the state's drinking water facilities and resources.

Reappropriation:

Drinking Water Assistance Account—Federal	\$5,000,000
Prior Biennia (Expenditures)	\$19,000,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$24,000,000

NEW SECTION. Sec. 234. FOR THE DEPARTMENT OF HEALTH
Drinking Water Assistance Program (04-4-003)

The appropriation in this section is subject to the following conditions and limitations: This appropriation is provided solely for an interagency agreement with the department of community, trade, and economic development to make, in cooperation with the public works board, loans to local governments and public water systems for projects and activities to protect and improve the state's drinking water facilities and resources.

Appropriation:

Drinking Water Assistance Account—Federal	\$28,122,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$28,122,000

NEW SECTION. Sec. 235. FOR THE DEPARTMENT OF HEALTH
Public Health Laboratory: Biosafety Level 3 Facility (02-2-001)

Reappropriation:

State Building Construction Account—State	\$2,231,485
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Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,231,485

NEW SECTION. Sec. 236. FOR THE DEPARTMENT OF HEALTH
 Public Health Laboratory: C Wing Remodel (02-2-002)

Reappropriation:

State Building Construction Account—State	\$295,900
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$295,900

NEW SECTION. Sec. 237. FOR THE DEPARTMENT OF HEALTH
 Public Health Laboratory: Chiller Plant Upgrade (02-1-004)

Reappropriation:

State Building Construction Account—State	\$2,355,142
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,355,142

NEW SECTION. Sec. 238. FOR THE DEPARTMENT OF HEALTH
 Public Health Laboratory: E Wing Remodel (02-2-003)

Reappropriation:

State Building Construction Account—State	\$295,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$295,000

NEW SECTION. Sec. 239. FOR THE DEPARTMENT OF VETERANS AFFAIRS

Retsil Veterans' Home: Minor Works Mechanical/Electrical/HVAC (02-1-001)

Reappropriation:

Charitable, Educational, Penal, and Reformatory Institutions Account—State	\$520,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$520,000

NEW SECTION. Sec. 240. FOR THE DEPARTMENT OF VETERANS AFFAIRS

Retsil: 240 Bed Nursing Facility (02-2-008)

Reappropriation:

Charitable, Educational, Penal, and Reformatory Institutions Account—State	\$500,000
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Appropriation:

General Fund—Federal	\$30,730,700
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Charitable, Educational, Penal, and Reformatory Institutions Account—State	\$250,000
State Building Construction Account—State	\$12,000,000
Subtotal Appropriation	\$42,980,700
Prior Biennia (Expenditures)	\$2,500,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$45,980,700

NEW SECTION. Sec. 241. FOR THE DEPARTMENT OF VETERANS AFFAIRS

Historic District Management Plan (04-I-850)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is for the completion of an historic district management plan that will address a federal requirement related to demolition of historically significant buildings and other structures as identified by the state historical preservation office at Retsil veterans home.

Appropriation:

Charitable, Educational, Penal, and Reformatory Institutions Account—State	\$40,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$40,000

NEW SECTION. Sec. 242. FOR THE DEPARTMENT OF VETERANS AFFAIRS

Emergency Repairs (04-1-002)

The appropriation in this section is subject to the following conditions and limitations: The appropriation shall only be used for unanticipated building or infrastructure repairs necessary for the protection of capital assets or protection of health or safety. The legislature does not intend for this appropriation to be used for routine maintenance.

Appropriation:

Charitable, Educational, Penal, and Reformatory Institutions Account—State	\$300,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$300,000

NEW SECTION. Sec. 243. FOR THE DEPARTMENT OF VETERANS AFFAIRS

Infrastructure Savings (04-1-851)

The appropriation in this section is subject to the following conditions and limitations: Projects that are completed in accordance with section 915 of this act may have their remaining funds transferred to this appropriation for other preservation projects approved by the office of financial management.

Appropriation:

State Building Construction Account—State	\$1
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1

NEW SECTION. Sec. 244. FOR THE DEPARTMENT OF VETERANS AFFAIRS

Minor Works - Facility Preservation: Orting (04-1-004)

Appropriation:

State Building Construction Account—State	\$750,000
Prior Biennia (Expenditures)	\$140,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$890,000

NEW SECTION. Sec. 245. FOR THE DEPARTMENT OF CORRECTIONS

Correctional Industries Space (98-2-005)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$4,368,519
Prior Biennia (Expenditures)	\$3,431,481
Future Biennia (Projected Costs)	\$0
TOTAL	\$7,800,000

NEW SECTION. Sec. 246. FOR THE DEPARTMENT OF CORRECTIONS

Coyote Ridge Corrections Center: Expansion (98-2-011)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$1,054,117
Prior Biennia (Expenditures)	\$1,607,834
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,661,951

NEW SECTION. Sec. 247. FOR THE DEPARTMENT OF CORRECTIONS

Stafford Creek Corrections Center: Construction (98-2-001)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$6,436,433
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Prior Biennia (Expenditures)	\$191,151,952
Future Biennia (Projected Costs)	\$0
TOTAL	\$197,588,385

NEW SECTION. Sec. 248. FOR THE DEPARTMENT OF CORRECTIONS

Local Criminal Justice Facilities (99-2-003)

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

(1) The reappropriation from the state building construction account—state appropriation is provided solely for grants to local jurisdictions for jail capacity expansion projects. Grants provided in this section shall be limited to up to \$500,000 per jurisdiction.

(2) \$500,000 of the state building construction account—state reappropriation increase in this section is provided solely for grants to local jurisdictions for the construction of jail beds.

(3) The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

General Fund—Federal	\$3,019,674
State Building Construction Account—State	\$2,668,195
Subtotal Reappropriation	\$5,687,869
Prior Biennia (Expenditures)	\$1,097,603
Future Biennia (Projected Costs)	\$0
TOTAL	\$6,785,472

NEW SECTION. Sec. 249. FOR THE DEPARTMENT OF CORRECTIONS

Violent Offender/Truth in Sentencing Grant Administration (99-2-004)

Reappropriation:

General Fund—Federal	\$672,287
Charitable, Educational, Penal, and Reformatory Institutions Account—State	\$94,194
Subtotal Reappropriation	\$766,481
Prior Biennia (Expenditures)	\$271,521
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,038,002

NEW SECTION. Sec. 250. FOR THE DEPARTMENT OF CORRECTIONS

Monroe Corrections Center: 100 Bed Management and Segregation Unit (00-2-008)

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

(1) It is the intent of the legislature to explore the concept of an anaerobic digester to treat dairy waste in Snohomish county, with the Monroe honor farm being one possible site for such a project.

(2) The department shall not sell, lease, or otherwise dispose of the Monroe honor farm site prior to December 1, 2004.

Reappropriation:

General Fund—Federal	\$10,964,679
State Building Construction Account—State	\$8,575,906
Subtotal Reappropriation	\$19,540,585

Appropriation:

State Building Construction Account—State	\$18,674,031
Prior Biennia (Expenditures)	\$1,223,416
Future Biennia (Projected Costs)	\$0
TOTAL	\$39,438,032

NEW SECTION. Sec. 251. FOR THE DEPARTMENT OF CORRECTIONS

Washington State Penitentiary: Intensive Management Unit Improvements (00-1-025)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$500,000
Prior Biennia (Expenditures)	\$4,100,964
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,600,964

NEW SECTION. Sec. 252. FOR THE DEPARTMENT OF CORRECTIONS

Monroe Corrections Center: Regional Training Center (02-2-016)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$2,812,140
Prior Biennia (Expenditures)	\$162,860
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,975,000

NEW SECTION. Sec. 253. FOR THE DEPARTMENT OF CORRECTIONS

Minor Works: Omnibus Preservation (02-1-015)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$3,124,489
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Prior Biennia (Expenditures).....	\$494,758
Future Biennia (Projected Costs).....	\$0
TOTAL	\$3,619,247

NEW SECTION. Sec. 254. FOR THE DEPARTMENT OF CORRECTIONS

Minor Works: Program (02-2-030)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$1,291,000
Prior Biennia (Expenditures).....	\$234,000
Future Biennia (Projected Costs).....	\$0
TOTAL	\$1,525,000

NEW SECTION. Sec. 255. FOR THE DEPARTMENT OF CORRECTIONS

Olympic Corrections Center: Replace Telecomm System (02-1-041)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$2,000,000
Prior Biennia (Expenditures).....	\$406,000
Future Biennia (Projected Costs).....	\$0
TOTAL	\$2,406,000

NEW SECTION. Sec. 256. FOR THE DEPARTMENT OF CORRECTIONS

Pine Lodge: Replace Telecommunication System (02-1-009)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$774,944
Prior Biennia (Expenditures).....	\$364,056
Future Biennia (Projected Costs).....	\$0
TOTAL	\$1,139,000

NEW SECTION. Sec. 257. FOR THE DEPARTMENT OF CORRECTIONS

Statewide Intensive Management Unit Repairs (02-1-040)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$1,544,656
Prior Biennia (Expenditures)	\$67,344
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,612,000

NEW SECTION. Sec. 258. FOR THE DEPARTMENT OF CORRECTIONS

Washington Corrections Center: Building Water Pipe Replacement Phase 2 (02-1-008)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$2,281,299
Prior Biennia (Expenditures)	\$412,701
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,694,000

NEW SECTION. Sec. 259. FOR THE DEPARTMENT OF CORRECTIONS

Washington Corrections Center: Domestic Water System Improvements (02-1-007)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$3,300,000
Prior Biennia (Expenditures)	\$231,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,531,000

NEW SECTION. Sec. 260. FOR THE DEPARTMENT OF CORRECTIONS

Washington Corrections Center: Replace Steam/Condensate Piping (02-1-006)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$6,170,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$6,170,000

NEW SECTION. Sec. 261. FOR THE DEPARTMENT OF CORRECTIONS

Washington State Penitentiary: Replace Electrical Supply System (02-1-024)

Reappropriation:

State Building Construction Account—State \$3,729,706

Appropriation:

State Building Construction Account—State \$4,242,715

Prior Biennia (Expenditures) \$331,294

Future Biennia (Projected Costs) \$4,016,473

TOTAL \$12,320,188

NEW SECTION. Sec. 262. FOR THE DEPARTMENT OF CORRECTIONS

Washington State Penitentiary: Replace Sanitary/Domestic Water Lines (02-1-026)

Reappropriation:

State Building Construction Account—State \$870,000

Appropriation:

State Building Construction Account—State \$1,312,167

Prior Biennia (Expenditures) \$200,000

Future Biennia (Projected Costs) \$1,187,520

TOTAL \$3,569,687

NEW SECTION. Sec. 263. FOR THE DEPARTMENT OF CORRECTIONS

Coyote Ridge Corrections Center: Expand Minimum Security Facility by 210 Beds (03-2-002)

Reappropriation:

State Building Construction Account—State \$2,804,073

Prior Biennia (Expenditures) \$589,927

Future Biennia (Projected Costs) \$0

TOTAL \$3,394,000

NEW SECTION. Sec. 264. FOR THE DEPARTMENT OF CORRECTIONS

McNeil Island Corrections Center: Water Tank Replacement (03-1-022)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State \$1,394,000

Prior Biennia (Expenditures) \$0

Future Biennia (Projected Costs) \$0

TOTAL \$1,394,000

NEW SECTION. Sec. 265. FOR THE DEPARTMENT OF CORRECTIONS

McNeil Island Corrections Center: Replace Submarine Electric Power Cable (04-1-006)

Appropriation:

State Building Construction Account—State	\$4,902,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$980,000
TOTAL	\$5,882,000

NEW SECTION. Sec. 266. FOR THE DEPARTMENT OF CORRECTIONS

Minor Works - Facility Preservation (04-1-001)

Appropriation:

State Building Construction Account—State	\$4,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,000,000

NEW SECTION. Sec. 267. FOR THE DEPARTMENT OF CORRECTIONS

Minor Works - Health, Safety, and Code (04-1-021)

Appropriation:

State Building Construction Account—State	\$4,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,000,000

NEW SECTION. Sec. 268. FOR THE DEPARTMENT OF CORRECTIONS

Minor Works - Infrastructure Preservation (04-1-003)

Appropriation:

State Building Construction Account—State	\$4,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,000,000

NEW SECTION. Sec. 269. FOR THE DEPARTMENT OF CORRECTIONS

Emergency Repairs (04-1-036)

The appropriation in this section is subject to the following conditions and limitations: The appropriation shall only be used for unanticipated building or infrastructure repairs necessary for the protection of capital assets or protection of health or safety. The legislature does not intend for this appropriation to be used for routine maintenance.

Appropriation:

Charitable, Educational, Penal, and Reformatory	
Institutions Account—State	\$1,600,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,600,000

NEW SECTION. Sec. 270. FOR THE DEPARTMENT OF CORRECTIONS

Washington State Penitentiary: Convert BAR Units from Medium to Close Custody (04-2-004)

Appropriation:

State Building Construction Account—State	\$17,809,202
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$17,809,202

NEW SECTION. Sec. 271. FOR THE DEPARTMENT OF CORRECTIONS

Washington State Penitentiary: North Close Security Compound (04-2-005)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided to construct essential close custody security beds and directly related structures.

Appropriation:

State Building Construction Account—State	\$133,940,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$5,800,000
TOTAL	\$139,740,000

NEW SECTION. Sec. 272. FOR THE DEPARTMENT OF CORRECTIONS

Infrastructure Savings (04-1-850)

The appropriation in this section is subject to the following conditions and limitations: Projects that are completed in accordance with section 915 of this act may have their remaining funds transferred to this appropriation for other preservation projects approved by the office of financial management.

Appropriation:

State Building Construction Account—State	\$1
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1

***NEW SECTION. Sec. 273. FOR THE DEPARTMENT OF CORRECTIONS**

Master Planning (04-4-950)

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

(1) The appropriation is provided solely for the department to contract for master planning services.

(2) The department shall incorporate the integration of operating and capital in the scope of work and master planning effort to include a minimum six-year planning horizon.

(3) The master plan shall include an analysis of forecasted offender population growth, gender, custody level, population and medical needs, infrastructure needs, and a system-wide view of facility needs. Alternatives should be generated that include the management of excess capacity.

(4) The plan shall consider strategies to integrate capital and operating planning and improve efficiencies in both areas.

(5) The scope of planning work shall be subject to review and approval by the office of financial management and the legislative fiscal capital committees. The office of financial management shall coordinate the review process. No later than October 1, 2003, and prior to pursuing a request for proposal, the department shall report to the office of financial management and the legislative fiscal capital committees on a proposed scope of work and draft timeline work plan. No later than January 15, 2004, the department shall report to the office of financial management and the legislative fiscal capital committees on the selection of a consultant, and revised scope of work and timeline work plan.

(6) The department shall not deduct any portion of this amount for administrative costs related to new staffing.

Appropriation:

State Building Construction Account—State	\$500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$500,000

*Sec. 273 was partially vetoed. See message at end of chapter.

NEW SECTION. Sec. 274. FOR THE DEPARTMENT OF CORRECTIONS

Washington Corrections Center: Regional Infrastructure (04-2-008)

Appropriation:

State Building Construction Account—State	\$4,650,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$10,518,000
TOTAL	\$15,168,000

NEW SECTION. Sec. 275. FOR THE CRIMINAL JUSTICE TRAINING COMMISSION

School Mapping and Security (04-4-950)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for the Washington association of sheriffs and police chiefs to conduct a school mapping and security project. The association and the criminal justice training commission shall coordinate this effort with the school safety advisory committee.

Appropriation:

State Building Construction Account—State	\$4,800,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,800,000

**PART 3
NATURAL RESOURCES**

**NEW SECTION. Sec. 301. FOR THE DEPARTMENT OF ECOLOGY
Referendum 38 Water Supply Facilities (74-2-006)**

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

(1) The reappropriation is provided solely for projects under contracts on or before June 30, 2003. Reappropriated funds not associated with contracted projects lapse June 30, 2003.

(2) The office of financial management may grant waivers from this lapse requirement for specific projects upon findings of exceptional circumstances after notification of the chairs of the house of representatives capital budget committee and senate ways and means committee.

(3) The department shall submit a report to the office of financial management and house of representatives capital budget committee and senate ways and means committee by December 1, 2003, listing all projects funded from this section.

(4) \$614,000 of the reappropriation from the state drought preparedness account is provided solely to purchase or lease water pursuant to section 308 of this act.

Reappropriation:

State Drought Preparedness—State	\$614,000
State and Local Improvements Revolving Account (Water Supply Facilities)—State	\$3,716,000
Subtotal Reappropriation	\$4,330,000
Prior Biennia (Expenditures)	\$13,268,071
Future Biennia (Projected Costs)	\$0
TOTAL	\$17,598,071

**NEW SECTION. Sec. 302. FOR THE DEPARTMENT OF ECOLOGY
Referendum 38 Water Supply Facilities (02-4-006)**

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

(1) \$250,000 of the reappropriation is provided solely to study the development of the Lake Wenatchee water storage project.

(2) The department shall submit a report to the office of financial management, the house of representatives capital budget committee, and the senate ways and means committee by December 1, 2003, listing all projects funded from this section.

Reappropriation:

State and Local Improvements Revolving Account (Water Supply Facilities)—State	\$5,394,000
Prior Biennia (Expenditures)	\$606,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$6,000,000

NEW SECTION. Sec. 303. FOR THE DEPARTMENT OF ECOLOGY
Local Toxics Grants to Locals for Cleanup and Prevention (88-2-008)

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

(1) The reappropriation is provided solely for projects under contract on or before June 30, 2003. Reappropriated funds not associated with contracted projects lapse June 30, 2003. The office of financial management may grant waivers from this lapse requirement for specific projects upon findings of exceptional circumstances after notification of the chairs of the house of representatives capital budget committee and senate ways and means committee.

(2) The department shall submit a report to the office of financial management and house of representatives capital budget committee and senate ways and means committee by December 1, 2003, listing all projects funded from this section.

Reappropriation:

Local Toxics Control Account—State	\$49,791,440
Prior Biennia (Expenditures)	\$84,039,482
Future Biennia (Projected Costs)	\$0
TOTAL	\$133,830,922

***NEW SECTION. Sec. 304. FOR THE DEPARTMENT OF ECOLOGY**

Local Toxics Grants to Locals for Cleanup and Prevention (04-4-008)

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

(1) \$8,000,000 of the appropriation is provided solely for a grant to the port of Ridgefield to continue clean-up actions on port-owned property.

(2) \$1,800,000, or as much thereof as may be necessary, of the appropriation is provided solely for a grant to Klickitat county for removal and disposal or recycling of vehicle tires. The grant shall include conditions that require Klickitat county to contract for the vehicle tire removal following a competitive bidding process. No funds from the grant may be expended for any remediation activities other than vehicle tire removal, disposal, and recycling.

Appropriation:

Local Toxics Control Account—State	\$45,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$45,000,000

*Sec. 304 was partially vetoed. See message at end of chapter.

NEW SECTION. Sec. 305. FOR THE DEPARTMENT OF ECOLOGY
 Water Pollution Control Revolving Account (90-2-002)

Reappropriation:

Water Pollution Control Revolving Account—Federal.	\$27,357,355
Prior Biennia (Expenditures).	\$73,083,222
Future Biennia (Projected Costs).	\$0
TOTAL.	\$100,440,577

NEW SECTION. Sec. 306. FOR THE DEPARTMENT OF ECOLOGY
 Low-Level Nuclear Waste Disposal Trench Closure (97-2-012)

Reappropriation:

Site Closure Account—State.	\$5,255,168
Prior Biennia (Expenditures).	\$1,028,898
Future Biennia (Projected Costs).	\$0
TOTAL.	\$6,284,066

NEW SECTION. Sec. 307. FOR THE DEPARTMENT OF ECOLOGY
 Low-level Nuclear Waste Disposal Trench Site Investigation (04-4-010)

Appropriation:

Site Closure Account—State.	\$1,141,415
Prior Biennia (Expenditures).	\$0
Future Biennia (Projected Costs).	\$0
TOTAL.	\$1,141,415

NEW SECTION. Sec. 308. FOR THE DEPARTMENT OF ECOLOGY
 Water Rights Purchase/Lease (99-1-005)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is provided for the purchase or lease of water rights under the trust water rights program under chapters 90.42 and 90.38 RCW, for the purpose of improving stream and river flows in fish critical basins.

Reappropriation:

General Fund—Federal	\$1,343,000
Prior Biennia (Expenditures).	\$2,145,551
Future Biennia (Projected Costs).	\$0
TOTAL.	\$3,488,551

NEW SECTION. Sec. 309. FOR THE DEPARTMENT OF ECOLOGY
 Water Rights Purchase/Lease (04-1-005)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided for the purchase or lease of water rights. It is also provided for the purpose of improving stream and river flows in fish critical basins under the trust water rights program under chapters 90.42 and 90.38 RCW.

Appropriation:

General Fund—Federal	\$1,500,000
State Drought Preparedness—State.	\$1,500,000

Subtotal Appropriation	\$3,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,000,000

NEW SECTION. Sec. 310. FOR THE DEPARTMENT OF ECOLOGY
Water Irrigation Efficiencies (01-H-010)

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

(1) The appropriation and reappropriation are provided solely to provide grants to conservation districts to assist the agricultural community to implement water conservation measures and irrigation efficiencies in the 16 critical basins. A conservation district receiving funds shall manage each grant to ensure that a portion of the water saved by the water conservation measure or irrigation efficiency will be placed as a purchase or a lease in the trust water rights program to enhance instream flows. The proportion of saved water placed in the trust water rights program must be equal to the percentage of the public investment in the conservation measure or irrigation efficiency. The percentage of the public investment may not exceed 85 percent of the total cost of the conservation measure or irrigation efficiency. In awarding grants, a conservation district shall give first priority to family farms.

(2) By February 1, 2003, the state conservation commission shall submit a progress report to the appropriate standing committees of the legislature on: (a) The amount of public funds expended from this section; and (b) the location and amount of water placed in the trust water rights program pursuant to this section.

Reappropriation:

State and Local Improvements Revolving Account (Water Supply Facilities)—State	\$2,650,000
Water Quality Account—State	\$3,117,000
Subtotal Reappropriation	\$5,767,000

Appropriation:

State Building Construction Account—State	\$1,000,000
Prior Biennia (Expenditures)	\$3,233,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$10,000,000

NEW SECTION. Sec. 311. FOR THE DEPARTMENT OF ECOLOGY
Water Measuring Devices (01-H-009)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is provided solely for water measuring devices and gauges. The department shall prioritize the distribution of water measuring devices and gauges to locations participating in the department of fish and wildlife's fish screens and cooperative compliance programs.

Reappropriation:

State Building Construction Account—State	\$2,700,000
Prior Biennia (Expenditures)	\$700,000

Future Biennia (Projected Costs)	\$0
TOTAL	\$3,400,000

NEW SECTION. Sec. 312. FOR THE DEPARTMENT OF ECOLOGY
 Centennial Clean Water Fund (02-4-007)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the conditions and limitations of section 315, chapter 8, Laws of 2001 2nd sp. sess.

Reappropriation:

Water Quality Account—State	\$20,210,510
Prior Biennia (Expenditures)	\$115,983,563
Future Biennia (Projected Costs)	\$0
TOTAL	\$136,194,073

NEW SECTION. Sec. 313. FOR THE DEPARTMENT OF ECOLOGY
 Centennial Clean Water Program (04-4-007)

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

(1) Up to \$7,547,044 of the water quality account appropriation is provided for the extended grant payment to Metro/King county.

(2) Up to \$10,000,000 of the state building construction account—state appropriation is provided for the extended grant payment to Spokane for the Spokane-Rathdrum Prairie aquifer.

(3) \$2,000,000 of the state building construction account—state appropriation is provided solely for water quality facility grants for communities with a population of less than 5,000. The department shall give priority consideration to: (a) Communities subject to a regulatory order from the department of ecology for noncompliance with water quality regulations; (b) projects for which design work has been completed; and (c) projects with a local match from reasonable water quality rates and charges.

(4) \$1,500,000 of the state building construction—state appropriation is provided solely for water conveyance facilities to implement the 1996 memorandum of agreement regarding utilization of Skagit river basin water resources for in-stream and out-of-stream purposes.

(5) \$4,000,000 of the state building construction account—state appropriation is provided solely for a grant to the city of Duvall for construction of a sewage treatment plant.

(6) \$1,000,000 of the state building construction account—state appropriation is provided solely for the Klickitat wastewater treatment project.

(7) The remaining appropriation in this section is provided for statewide water quality implementation and planning grants and loans. The department shall give priority consideration to projects located in basins with critical or depressed salmonid stocks.

(8) In addition to the annual project progress reporting requirement of RCW 43.88.160(3), the department shall file quarterly project progress reports with the office of financial management.

Appropriation:

State Building Construction Account—State	\$30,452,000
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Water Quality Account—State	\$15,948,000
Subtotal Appropriation	\$46,400,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$200,000,000
TOTAL	\$246,400,000

NEW SECTION. Sec. 314. FOR THE DEPARTMENT OF ECOLOGY

Water Pollution Control Revolving Account (02-4-002)

Reappropriation:

Water Pollution Control Revolving Account—State	\$149,099,023
Water Pollution Control Revolving Account—Federal	\$39,474,405
Subtotal Reappropriation	\$188,573,428
Prior Biennia (Expenditures)	\$166,029,368
Future Biennia (Projected Costs)	\$0
TOTAL	\$354,602,796

NEW SECTION. Sec. 315. FOR THE DEPARTMENT OF ECOLOGY

Water Pollution Control Program (04-4-002)

Appropriation:

Water Pollution Control Revolving Account—State	\$66,663,333
Water Pollution Control Revolving Account—Federal	\$44,466,666
Subtotal Appropriation	\$111,129,999
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$462,000,000
TOTAL	\$573,129,999

NEW SECTION. Sec. 316. FOR THE DEPARTMENT OF ECOLOGY

Water Supply Facilities Program (04-4-006)

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

(1)(a) \$1,000,000 of the state building construction account appropriation and \$3,000,000 of the state and local improvements revolving account appropriation are provided solely for expenditure under a contract between the department of ecology and the United States bureau of reclamation for the development of plans, engineering, and financing reports and other preconstruction activities associated with the development of water storage projects in the Yakima river basin, consistent with the Yakima river basin water enhancement project, P.L. 103-434. The initial water storage feasibility study shall be for the Black Rock reservoir project. The department shall seek federal funds to augment the funding provided by this appropriation.

(b) Up to \$2,240,000 of the state building construction account—state appropriation is provided solely for phase 1 of restoration of anadromous fish habitat in Manastash creek.

(c) The remainder of the state building construction account appropriation is provided solely for grants for the development of plans, engineering and financing reports, acquiring land and facilities, and other preconstruction activities associated with the development of water storage and groundwater

storage and recovery projects. Proposed projects must be consistent with the recommendations of the water storage task force and the governor's water strategy. Priority for the use of these funds must be given to: Projects that have been identified for early action through watershed plans, comprehensive irrigation district management plans, or similar plans; to projects that are part of an approved habitat conservation plan or other intergovernmental agreement; or to joint projects with federal entities such as the bureau of reclamation. The department shall develop and administer this grants program in conjunction with the departments of agriculture and fish and wildlife. Decisions regarding which projects are funded must be by unanimous agreement of all three departments. The department shall seek local and federal funds to augment the funding provided by this appropriation.

(2) In addition to the annual project progress reporting requirement of RCW 43.88.160(3), the department shall file quarterly project progress reports with the office of financial management.

(3) By December 1, 2003, the department shall submit a report to the office of financial management and standing capital budget committees of the house of representatives and the senate listing all projects funded under this section.

Appropriation:

State Building Construction Account—State	\$6,650,000
State and Local Improvements Revolving Account (Water Supply Facilities)—State	\$7,000,000
Subtotal Appropriation	\$13,650,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$13,650,000

NEW SECTION. Sec. 317. FOR THE DEPARTMENT OF ECOLOGY
Padilla Bay Expansion (02-2-006)

Reappropriation:

General Fund—Federal	\$1,472,891
State Building Construction Account—State	\$693,353
Subtotal Reappropriation	\$2,166,244

Appropriation:

General Fund—Federal	\$2,417,196
State Building Construction Account—State	\$568,804
Subtotal Appropriation	\$2,986,000
Prior Biennia (Expenditures)	\$527,756
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,680,000

NEW SECTION. Sec. 318. FOR THE DEPARTMENT OF ECOLOGY
Twin Lake Aquifer Recharge Project (04-2-951)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely to recover the department of ecology's cost in evaluating and issuing decisions on water right applications and restoration of the Twin Lakes in the Methow valley.

Appropriation:

State Building Construction Account—State	\$750,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$750,000

NEW SECTION. Sec. 319. FOR THE DEPARTMENT OF ECOLOGY
 Columbia Basin Ground Water Management (04-2-952)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely to the department of ecology to make grants to implement the Columbia basin ground water management area plan.

Appropriation:

Water Quality Account—State	\$500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$500,000

NEW SECTION. Sec. 320. FOR THE STATE PARKS AND RECREATION COMMISSION

Lewis and Clark Trail Bicentennial (00-1-010)

The appropriations in this section are subject to the following conditions and limitations: The reappropriation in this section is provided solely to renovate facilities and enhance exhibits at Lewis and Clark trail interpretive centers located at Sacajawea state park and Fort Canby state park.

Reappropriation:

State Building Construction Account—State	\$700,000
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Appropriation:

State Building Construction Account—State	\$3,337,000
Prior Biennia (Expenditures)	\$600,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,837,000

NEW SECTION. Sec. 321. FOR THE STATE PARKS AND RECREATION COMMISSION

Facility Improvement (01-S-005)

The reappropriation in this section is subject to the following conditions and limitations: \$200,000 is provided solely for funding of the twin tunnels bridge on the Iron Goat trail.

Reappropriation:

State Building Construction Account—State	\$750,000
Prior Biennia (Expenditures)	\$2,750,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,500,000

NEW SECTION. Sec. 322. FOR THE STATE PARKS AND RECREATION COMMISSION

Beacon Rock Pierce Trust (02-3-018)

Reappropriation:

Parks Renewal and Stewardship Account—State	\$200,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$200,000

NEW SECTION. Sec. 323. FOR THE STATE PARKS AND RECREATION COMMISSION

Beacon Rock Pierce Trust (04-2-018)

Appropriation:

Parks Renewal and Stewardship Account—State	\$50,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$50,000

NEW SECTION. Sec. 324. FOR THE STATE PARKS AND RECREATION COMMISSION

Coastal Facility Relocation (00-1-005)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$800,000
Prior Biennia (Expenditures)	\$1,200,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,000,000

NEW SECTION. Sec. 325. FOR THE STATE PARKS AND RECREATION COMMISSION

Coastal Facility Relocation (02-1-017)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the conditions and limitations in section 324, chapter 8, Laws of 2001 2nd sp. sess.

Reappropriation:

Parks Renewal and Stewardship Account—State	\$3,500,000
Prior Biennia (Expenditures)	\$584,500
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,084,500

NEW SECTION. Sec. 326. FOR THE STATE PARKS AND RECREATION COMMISSION

Facilities Preservation: Statewide (98-1-003)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation in this section expires December 31, 2003.

Reappropriation:

State Building Construction Account—State	\$900,000
Prior Biennia (Expenditures)	\$8,784,535
Future Biennia (Projected Costs)	\$0
TOTAL	\$9,684,532

NEW SECTION. Sec. 327. FOR THE STATE PARKS AND RECREATION COMMISSION

Statewide Facility Preservation and Deferred Maintenance (99-1-001)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation in this section expires December 31, 2003.

Reappropriation:

State Building Construction Account—State	\$125,000
Prior Biennia (Expenditures)	\$3,875,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,000,000

NEW SECTION. Sec. 328. FOR THE STATE PARKS AND RECREATION COMMISSION

Facility Preservation (02-1-001)

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

(1) The reappropriation is provided solely to continue minor works projects that reduce the deferred maintenance backlog.

(2) The legislature does not intend to reappropriate any amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$6,000,000
Prior Biennia (Expenditures)	\$4,000,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$10,000,000

NEW SECTION. Sec. 329. FOR THE STATE PARKS AND RECREATION COMMISSION

Minor Works - Facility Preservation (04-1-001)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided solely to continue minor works projects that reduce the deferred maintenance backlog.

Appropriation:

State Building Construction Account—State	\$1,837,500
Parks Renewal and Stewardship Account—State	\$5,900,000
Subtotal Appropriation	\$7,737,500
Prior Biennia (Expenditures)	\$0

Future Biennia (Projected Costs)	\$0
TOTAL	\$7,737,500

NEW SECTION. Sec. 330. FOR THE STATE PARKS AND RECREATION COMMISSION

Fort Worden (02-1-003)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is provided solely for park preservation and for development of the multipurpose dining and meeting facility.

Reappropriation:

State Building Construction Account—State	\$1,500,000
Prior Biennia (Expenditures)	\$4,569,365
Future Biennia (Projected Costs)	\$0
TOTAL	\$6,069,365

NEW SECTION. Sec. 331. FOR THE STATE PARKS AND RECREATION COMMISSION

Fort Worden (04-1-004)

Appropriation:

State Building Construction Account—State	\$1,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,000,000

NEW SECTION. Sec. 332. FOR THE STATE PARKS AND RECREATION COMMISSION

Cama Beach State Park Development (99-2-001)

Reappropriation:

Parks Renewal and Stewardship Account—State	\$310,000
Prior Biennia (Expenditures)	\$690,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,000,000

NEW SECTION. Sec. 333. FOR THE STATE PARKS AND RECREATION COMMISSION

Major Park Renovation - Cama Beach (02-1-022)

The appropriations in this section are subject to the following conditions and limitations: The reappropriation in this section is provided to complete electrical power, water, and sewer utilities, and for other park development and renovation.

Reappropriation:

State Building Construction Account—State	\$2,500,000
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Appropriation:

Parks Renewal and Stewardship Account—State	\$200,000
Prior Biennia (Expenditures)	\$1,500,000
Future Biennia (Projected Costs)	\$0

TOTAL \$4,200,000

NEW SECTION. Sec. 334. FOR THE STATE PARKS AND RECREATION COMMISSION

Natural/Historic Stewardship (02-1-006)

Reappropriation:

State Building Construction Account—State \$600,000

Prior Biennia (Expenditures) \$400,000

Future Biennia (Projected Costs) \$0

TOTAL \$1,000,000

NEW SECTION. Sec. 335. FOR THE STATE PARKS AND RECREATION COMMISSION

Historic Structure and Land Use Program (00-1-007)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State \$300,000

Prior Biennia (Expenditures) \$6,200,000

Future Biennia (Projected Costs) \$0

TOTAL \$6,500,000

NEW SECTION. Sec. 336. FOR THE STATE PARKS AND RECREATION COMMISSION

Historic Stewardship (04-1-010)

Appropriation:

State Building Construction Account—State \$1,000,000

Prior Biennia (Expenditures) \$0

Future Biennia (Projected Costs) \$8,000,000

TOTAL \$9,000,000

NEW SECTION. Sec. 337. FOR THE STATE PARKS AND RECREATION COMMISSION

Park Housing (02-2-008)

Reappropriation:

State Building Construction Account—State \$300,000

Appropriation:

State Building Construction Account—State \$1,000,000

Prior Biennia (Expenditures) \$200,000

Future Biennia (Projected Costs) \$0

TOTAL \$1,500,000

NEW SECTION. Sec. 338. FOR THE STATE PARKS AND RECREATION COMMISSION

Parkland Acquisition Account (02-2-016)

Reappropriation:

Parkland Acquisition Account—State	\$1,951,417
Prior Biennia (Expenditures)	\$48,583
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,000,000

NEW SECTION. Sec. 339. FOR THE STATE PARKS AND RECREATION COMMISSION

Parkland Acquisition (04-2-013)

Appropriation:

Parkland Acquisition Account—State	\$1,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$8,000,000
TOTAL	\$9,000,000

NEW SECTION. Sec. 340. FOR THE STATE PARKS AND RECREATION COMMISSION

Iron Horse Trail (04-2-016)

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

(1) In addition to the annual project progress reporting requirement of RCW 43.88.160(3), the commission shall file quarterly project progress reports with the office of financial management.

(2) The commission shall submit a study of potential user fees that could support maintenance, operation, and capital renewal costs of the agency's three cross-state trails. This study must be submitted to the office of financial management by June 30, 2004.

Appropriation:

State Building Construction Account—State	\$262,500
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$262,500

NEW SECTION. Sec. 341. FOR THE STATE PARKS AND RECREATION COMMISSION

Recreation Development-Grayland Beach (02-2-007)

Reappropriation:

State Building Construction Account—State	\$450,000
Prior Biennia (Expenditures)	\$50,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$500,000

NEW SECTION. Sec. 342. FOR THE STATE PARKS AND RECREATION COMMISSION

Statewide Boat Pumpout - Federal Clean Vessel Act (02-2-020)

Reappropriation:

General Fund—Federal	\$797,528
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Prior Biennia (Expenditures)	\$202,472
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,000,000

NEW SECTION. Sec. 343. FOR THE STATE PARKS AND RECREATION COMMISSION

Statewide Boat Pumpout - Federal Clean Vessel Act (04-4-014)

Appropriation:

General Fund—Federal	\$1,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$4,000,000
TOTAL	\$5,000,000

NEW SECTION. Sec. 344. FOR THE STATE PARKS AND RECREATION COMMISSION

Job Creation and Infrastructure (03-1-001)

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

- (1) The legislature does not intend to reappropriate amounts not expended by June 30, 2005.
- (2) The reappropriation shall support the projects as listed in section 211, chapter 238, Laws of 2002.

Reappropriation:

State Building Construction Account—State	\$4,000,000
Prior Biennia (Expenditures)	\$5,500,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$9,500,000

NEW SECTION. Sec. 345. FOR THE STATE PARKS AND RECREATION COMMISSION

Deception Pass State Park Renovation (04-1-019)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is for design and permits for park and marine crew area relocation.

Appropriation:

State Building Construction Account—State	\$250,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$250,000

NEW SECTION. Sec. 346. FOR THE STATE PARKS AND RECREATION COMMISSION

Emergency Repairs (04-1-012)

The appropriation in this section is subject to the following conditions and limitations: The appropriation shall only be used for unanticipated building or infrastructure repairs necessary for the protection of capital assets or protection

of health or safety. The legislature does not intend for this appropriation to be used for routine maintenance.

Appropriation:

State Building Construction Account—State	\$500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$3,200,000
TOTAL	\$3,700,000

NEW SECTION. Sec. 347. FOR THE STATE PARKS AND RECREATION COMMISSION

Facility Assessment (04-2-011)

The appropriation in this section is subject to the following conditions and limitations: The commission shall submit to the legislature, no later than October 15, 2003, a report regarding the current condition and prospective content of the state parks system for the system's centennial in 2013. The report and its proposals must include the following elements: Lands, facilities, and programs within the current state parks system, park renovation needs, development of new public-use facilities on existing state park lands, the rearranging of park assets for better public use, and how these investments relate to the recreation needs of the state's growing population. The report also is to include a financing strategy including but not limited to private/public resources potentially available for the centennial.

Appropriation:

Parks Renewal and Stewardship Account—State	\$150,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$150,000

NEW SECTION. Sec. 348. FOR THE STATE PARKS AND RECREATION COMMISSION

Recreation Development (04-2-002)

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

(1) \$100,000 of the appropriation shall be used to retain a consultant to conduct a predesign study for a headquarters building located in Thurston county. The predesign shall compare a new leased facility against options to build and evaluate appropriate funding strategies.

(2) \$900,000 of the appropriation shall be used to install fee collection stations at selected parks statewide.

(3) In addition to the annual project progress reporting requirement of RCW 43.88.160(3), the commission shall file quarterly project progress reports with the office of financial management.

Appropriation:

State Building Construction Account—State	\$2,900,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$8,000,000

TOTAL \$10,900,000

NEW SECTION. Sec. 349. FOR THE STATE PARKS AND RECREATION COMMISSION

Fort Canby Improvements (04-2-850)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for the Realvest upland area.

Appropriation:

State Building Construction Account—State \$750,000
Prior Biennia (Expenditures) \$0
Future Biennia (Projected Costs) \$0
TOTAL \$750,000

NEW SECTION. Sec. 350. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Boating Facilities Projects (98-2-001)

Reappropriation:

Recreation Resources Account—State \$9,929,319
Prior Biennia (Expenditures) \$9,553,140
Future Biennia (Projected Costs) \$0
TOTAL \$19,482,459

NEW SECTION. Sec. 351. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Firearms Range Program (98-2-004)

Reappropriation:

Firearms Range Account—State \$147,078
Prior Biennia (Expenditures) \$426,591
Future Biennia (Projected Costs) \$0
TOTAL \$573,669

***NEW SECTION. Sec. 352. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION**

Wildlife and Recreation Program (WWRP) (98-2-003)

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

(1) Reappropriated funds that are not obligated to a specific project may be used to fund projects from the list of alternate projects in biennia succeeding the biennium in which the funds were originally appropriated.

(2) *The reappropriations in this section expire December 31, 2003.*

Reappropriation:

Outdoor Recreation Account—State \$16,226,384
Habitat Conservation Account—State \$14,098,656
Subtotal Reappropriation \$30,325,040
Prior Biennia (Expenditures) \$64,740,260
Future Biennia (Projected Costs) \$0

TOTAL \$84,649,025

*Sec. 352 was partially vetoed. See message at end of chapter.

NEW SECTION. Sec. 353. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Wildlife and Recreation Program (WWRP) (02-4-003)

The reappropriations in this section are for the wildlife and recreation program under chapter 43.99A RCW and RCW 43.99A.040 are subject to the following conditions and limitations:

(1) The reappropriation is provided for the approved list of projects included in LEAP capital document No. 2001-24, as developed on June 7, 2001, and LEAP capital document No. 2002-21, as developed on March 12, 2002.

(2) The department of natural resources shall manage lands acquired through project No. 00-1427 "North Bay NAP" as a natural resources conservation area under chapter 79.71 RCW.

(3) It is the intent of the legislature that no reappropriations shall be made in the 2005-07 biennium.

Reappropriation:

Outdoor Recreation Account—State	\$15,089,319
Habitat Conservation Account—State.	\$19,200,926
Subtotal Reappropriation	\$34,290,245
Prior Biennia (Expenditures)	\$10,709,755
Future Biennia (Projected Costs).	\$0
TOTAL	\$45,000,000

NEW SECTION. Sec. 354. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Washington Wildlife and Recreation Program (WWRP) (04-4-002)

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

(1) The appropriation is provided for the approved list of projects in LEAP capital document No. 2003-45, as developed on June 4, 2003. In addition to the annual project progress reporting requirement of RCW 43.88.160(3), the committee shall file quarterly project progress reports with the office of financial management.

(2) It is the intent of the legislature that any moneys remaining unexpended shall be reappropriated in the 2005-07 biennium, but no reappropriations shall be made in subsequent biennia.

(3) The department of natural resources shall manage lands acquired through project No. 02-1090, "Bone river and Niawiakum river natural area preserves," as natural resources conservation areas under chapter 79.71 RCW.

Appropriation:

Outdoor Recreation Account—State	\$22,500,000
Habitat Conservation Account—State.	\$22,500,000
Subtotal Appropriation	\$45,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs).	\$120,000,000

TOTAL \$165,000,000

NEW SECTION, Sec. 355. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Firearms and Archery Range Program (FARR) (02-0-001)

Reappropriation:

Firearms Range Account—State \$388,462

Prior Biennia (Expenditures) \$0

Future Biennia (Projected Costs) \$0

TOTAL \$388,462

NEW SECTION, Sec. 356. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Firearms and Archery Range Recreation Program (FARR) (04-4-006)

Appropriation:

Firearms Range Account—State \$150,000

Prior Biennia (Expenditures) \$0

Future Biennia (Projected Costs) \$0

TOTAL \$150,000

NEW SECTION, Sec. 357. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Hatchery Management Program (02-4-009)

Reappropriation:

General Fund—Federal \$9,663,822

Prior Biennia (Expenditures) \$1,404,650

Future Biennia (Projected Costs) \$0

TOTAL \$11,068,472

NEW SECTION, Sec. 358. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Hatchery Management Program (04-4-010)

Appropriation:

General Fund—Federal \$10,000,000

Prior Biennia (Expenditures) \$0

Future Biennia (Projected Costs) \$40,000,000

TOTAL \$50,000,000

NEW SECTION, Sec. 359. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Land and Water Conservation (LWCF) (02-4-005)

The reappropriation in this section is subject to the following conditions and limitations: \$1,500,000 of the recreation resources account—federal is reappropriated for projects chosen by the interagency committee for outdoor recreation.

Reappropriation:

Recreation Resources Account—Federal \$7,143,443

Prior Biennia (Expenditures)	\$225,228
Future Biennia (Projected Costs)	\$0
TOTAL	\$7,500,000

NEW SECTION. Sec. 360. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Land and Water Conservation Fund (LWCF) (04-4-007)

Appropriation:

General Fund—Federal	\$5,735,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,735,000

NEW SECTION. Sec. 361. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

National Recreation Trails (NRTP) (98-2-006)

Reappropriation:

Recreation Resources Account—Federal	\$261,247
Prior Biennia (Expenditures)	\$1,760,568
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,067,614

NEW SECTION. Sec. 362. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

National Recreation Trails Program (NRTP) (02-4-006)

Reappropriation:

Recreation Resources Account—Federal	\$1,617,419
Prior Biennia (Expenditures)	\$420,230
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,132,936

NEW SECTION. Sec. 363. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

National Recreation Trails Program (NRTP) (04-4-008)

Appropriation:

General Fund—Federal	\$2,260,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,260,000

NEW SECTION. Sec. 364. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Nonhighway Off-Road Vehicle Program (NOVA) (98-2-002)

Reappropriation:

Nonhighway and Off-Road Vehicle Activities Program Account—State	\$3,982,180
Prior Biennia (Expenditures)	\$7,064,917

Future Biennia (Projected Costs)	\$0
TOTAL	\$11,095,923

NEW SECTION. Sec. 365. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Nonhighway Off-Road Vehicle (NOVA) (02-4-002)

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

(1) The reappropriation for the nonhighway and off-road vehicle program under RCW 46.09.170(1)(d)(i) is subject to the following conditions and limitations: A portion of the reappropriation may be used for grants to projects to research, develop, publish, and distribute informational guides and maps of nonhighway and off-road vehicle trails and associated facilities meeting the requirements, guidelines, spirit, and intent of the federal Americans with disabilities act.

(2) The reappropriation for the nonhighway and off-road vehicle program under RCW 46.09.170(1)(d)(ii) is subject to the following conditions and limitations: The portion of the reappropriation that applies to grants for capital facilities may be used for grants to projects that meet the requirements, guidelines, spirit, and intent of the federal Americans with disabilities act and do not compromise or impair sensitive natural resources. The portion of the reappropriation that applies to grants for management, maintenance, and operation of existing off-road vehicle recreation facilities may be used to bring the facilities into compliance with the requirements, guidelines, spirit, and intent of the federal Americans with disabilities act.

(3) The reappropriation for the nonhighway and off-road vehicle program under RCW 46.09.170(1)(d)(iii) is subject to the following conditions and limitations: Funds may be expended for nonhighway road recreation facilities which may include recreational trails that are accessed by nonhighway roads and are intended solely for nonmotorized recreational uses.

Reappropriation:

Nonhighway Off-Road Vehicle Activities Program

Account—State.	\$4,479,456
Prior Biennia (Expenditures)	\$1,040,141
Future Biennia (Projected Costs).	\$0
TOTAL	\$5,527,551

NEW SECTION. Sec. 366. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Nonhighway and Off-Road Vehicle Activities Program (NOVA) (04-4-004)

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

(1) \$450,000 of the appropriation is provided solely to maintain and operate existing ORV and other recreation facilities, including ORV campgrounds, on lands managed by the department of natural resources for the fiscal year ending June 30, 2004.

(2) \$325,000 of the appropriation is provided solely to the state parks and recreation commission to construct and upgrade trails and trail-related facilities for both motorized and nonmotorized uses within state parks.

Appropriation:

Nonhighway and Off-Road Vehicle Activities Program	
Account—State	\$6,226,310
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$6,226,310

NEW SECTION. Sec. 367. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Salmon Recovery (00-2-001)

The reappropriation in this section is subject to the following conditions and limitations: The agency shall report to the legislature by December 1, 2003, on the reason for funds in this section not being expended.

Reappropriation:

General Fund—Federal	\$35,263,219
Salmon Recovery Account—State	\$11,076,017
Subtotal Reappropriation	\$46,339,236
Prior Biennia (Expenditures)	\$53,566,576
Future Biennia (Projected Costs)	\$0
TOTAL	\$101,569,389

NEW SECTION. Sec. 368. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Salmon Recovery (02-4-007)

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

(1) Activities funded through grants provided in this section shall be consistent with the salmon recovery funding board's goals, mission, and responsibilities.

(2) Jobs for the environment projects submitted by lead entities are eligible to receive funding, including wages for jobs for the environment participants.

Reappropriation:

General Fund—Federal	\$45,519,996
State Building Construction Account—State	\$20,748,251
Subtotal Reappropriation	\$66,268,247
Prior Biennia (Expenditures)	\$10,577,920
Future Biennia (Projected Costs)	\$0
TOTAL	\$74,993,000

NEW SECTION. Sec. 369. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Salmon Recovery Fund Board Programs (SRFB) (04-4-001)

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

(1) \$23,187,500 of the appropriation is provided for grants for restoration projects.

(2) The remainder of the appropriation is provided solely for grants for other salmon recovery efforts. These grants shall include a grant to any regional recovery board established in the Revised Code of Washington and may include grants for additional restoration projects.

(3) By December 1, 2003, the salmon recovery funding board shall provide a report to the house of representatives capital budget committee and the senate ways and means committee that enumerates board expenditures for salmon recovery projects and activities. The report shall include a list of each project that has been approved for funding by the board, and each project that was submitted on a lead entity habitat project schedule and not funded by the board. Each list shall include the project, project description, project sponsor, status of the project including expenditures to date and completion date, and matching funds that were available for the project. The report shall also include a list and description of all other activities funded by the board including consulting contracts, lead entity and regional recovery board contracts, a description of each of these activities, and the timeline for their completion.

Appropriation:

General Fund—Federal	\$34,375,000
State Building Construction Account—State	\$12,000,000
Subtotal Appropriation	\$46,375,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$46,375,000

NEW SECTION. Sec. 370. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Boating Facilities Program (02-4-001)

Reappropriation:

Recreation Resources Account—State	\$6,389,602
Prior Biennia (Expenditures)	\$345,510
Future Biennia (Projected Costs)	\$0
TOTAL	\$6,934,013

NEW SECTION. Sec. 371. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Boating Facilities Program (BFP) (04-4-003)

Appropriation:

Recreation Resources Account—State	\$7,506,959
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$7,506,959

NEW SECTION. Sec. 372. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Boating Infrastructure Grant (BIG) (02-4-010)

Reappropriation:

Recreation Resources Account—Federal	\$1,926,155
Prior Biennia (Expenditures)	\$39,350
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,000,000

NEW SECTION. Sec. 373. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Boating Infrastructure Grant Program (BIG) (04-4-009)

Appropriation:

General Fund—Federal	\$2,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,000,000

NEW SECTION. Sec. 374. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Family Forest Fish Blockages Program (04-4-011)

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

(1) This appropriation is provided solely for the salmon recovery funding board in consultation with the small forest landowner office of the department of natural resources and the department of fish and wildlife to provide grants to correct fish passage blockages on nonindustrial forest lands. Selection of projects must be coordinated with the other salmon recovery grant programs provided in section 369 of this act.

(2) In addition to the annual project progress reporting requirement of RCW 43.88.160(3), the committee shall file quarterly project progress reports with the office of financial management.

(3) The committee may not expend more than \$100,000 of the appropriation for administrative or staff costs.

Appropriation:

State Building Construction Account—State	\$2,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,000,000

NEW SECTION. Sec. 375. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Aquatic Lands Enhancement Grants (00-2-014)

The reappropriation in this section is subject to the following conditions and limitations: The department shall report to the legislature by December 1, 2003, on the reason for funds in this section not being expended.

Reappropriation:

Aquatic Lands Enhancement Account—State	\$1,485,269
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Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,485,269

NEW SECTION. Sec. 376. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Aquatic Lands Enhancement Grants (02-4-018)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is provided for a list of projects in LEAP capital document No. 2001-44, as developed on June 7, 2001.

Reappropriation:

Aquatic Lands Enhancement Account—State	\$3,630,075
Prior Biennia (Expenditures)	\$1,934,925
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,565,000

NEW SECTION. Sec. 377. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Aquatic Lands Enhancement Grants (04-4-018)

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

(1) The appropriation in this section is provided for a list of projects in LEAP capital document No. 2003-32, as developed on June 4, 2003.

(2) The committee shall submit a list of recommended projects to be funded from the aquatic lands enhancement account in the 2005-2007 capital budget. The list shall result from a competitive grants program developed by the committee based upon, at a minimum: (a) A uniform criteria for selecting projects and awarding grants for up to fifty percent of the total project cost; (b) local community support for the project; and (c) environmental benefits to be derived from projects. This process must be coordinated with the salmon recovery funding board selection process. The list of projects must be submitted to the office of financial management by September 15, 2004.

Appropriation:

Aquatic Lands Enhancement Account—State	\$5,356,400
Prior Biennia (Expenditures)	\$12,622,319
Future Biennia (Projected Costs)	\$22,000,000
TOTAL	\$39,978,719

NEW SECTION. Sec. 378. FOR THE STATE CONSERVATION COMMISSION

Skykomish Flood Mitigation Project (01-H-013)

Reappropriation:

State Building Construction Account—State	\$300,000
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Appropriation:

State Building Construction Account—State	\$181,000
Prior Biennia (Expenditures)	\$318,000

Future Biennia (Projected Costs).....	\$0
TOTAL.....	\$799,000

NEW SECTION. Sec. 379. FOR THE STATE CONSERVATION COMMISSION

Conservation Reserve Enhancement Program (00-2-004 and 04-4-004)

The appropriations in this section are subject to the following conditions and limitations: The reappropriation in this section is for project number 00-2-004. The appropriation is for project number 04-4-004.

Reappropriation:

State Building Construction Account—State	\$1,000,000
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Appropriation:

State Building Construction Account—State	\$2,000,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL.....	\$4,000,000

NEW SECTION. Sec. 380. FOR THE STATE CONSERVATION COMMISSION

Dairy Nutrient Management Grants Program (02-4-002)

Reappropriation:

Water Quality Account—State	\$350,000
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Appropriation:

Water Quality Account—State	\$1,600,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL.....	\$1,950,000

NEW SECTION. Sec. 381. FOR THE STATE CONSERVATION COMMISSION

Puget Sound District Grants (02-4-003 and 04-4-005)

The appropriations in this section are subject to the following conditions and limitations: The reappropriation in this section is for project number 02-4-003. The appropriation is for project number 04-4-005.

Reappropriation:

Water Quality Account—State	\$150,000
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Appropriation:

Water Quality Account—State	\$840,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL.....	\$1,680,000

NEW SECTION. Sec. 382. FOR THE STATE CONSERVATION COMMISSION

Water Quality Grants Program (02-4-001 and 04-4-002)

The appropriations in this section are subject to the following conditions and limitations: The reappropriation in this section is for project number 02-4-001. The appropriation is for project number 04-4-002.

Reappropriation:

Water Quality Account—State \$750,000

Appropriation:

State Building Construction Account—State \$3,500,000

Prior Biennia (Expenditures) \$0

Future Biennia (Projected Costs)..... \$0

TOTAL \$4,250,000

NEW SECTION. Sec. 383. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Fish Screens (01-H-011)

The appropriations in this section are subject to the following conditions and limitations: The appropriations in this section are provided solely for the inventory, design, construction, and installation of fish screens and fishways. To the extent practicable and cost effective, the department shall contract for the design, construction, and installation of fish screens and fishways. Funds provided by these appropriations may be used to match federal funds appropriated under HR 1444, the fisheries restoration and irrigation mitigation act of 2000.

Reappropriation:

State Building Construction Account—State \$1,000,000

General Fund—Federal \$500,000

Subtotal Reappropriation \$1,500,000

Appropriation:

State Building Construction Account—State \$1,000,000

Prior Biennia (Expenditures) \$0

Future Biennia (Projected Costs)..... \$0

TOTAL \$2,500,000

NEW SECTION. Sec. 384. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Code Compliance and Protection (02-1-005)

The reappropriations in this section are subject to the following conditions and limitations: This section reappropriates a portion of the appropriations made in section 389, chapter 8, Laws of 2001 2nd sp. sess.

Reappropriation:

General Fund—Federal \$506,700

State Building Construction Account—State \$350,000

Subtotal Reappropriation \$856,700

Prior Biennia (Expenditures) \$2,000,000

Future Biennia (Projected Costs)..... \$0

TOTAL \$2,856,700

NEW SECTION. Sec. 385. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Commercial and Recreational Customer Satisfaction Improvements (02-2-006)

Reappropriation:

Warm Water Game Fish Account—State	\$505,000
Wildlife Account—State	\$500,000
Subtotal Reappropriation	\$1,005,000
Prior Biennia (Expenditures)	\$55,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,060,000

NEW SECTION. Sec. 386. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Diverse Fish and Wildlife Population Health and Protection (02-2-004)

Reappropriation:

State Building Construction Account—State	\$190,000
Wildlife Account—State	\$1,045,000
Subtotal Reappropriation	\$1,235,000
Prior Biennia (Expenditures)	\$6,015,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$7,250,000

NEW SECTION. Sec. 387. FOR THE DEPARTMENT OF FISH AND WILDLIFE

ESA Compliance on Agency Lands (02-2-002)

Reappropriation:

State Building Construction Account—State	\$650,000
Prior Biennia (Expenditures)	\$350,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,000,000

NEW SECTION. Sec. 388. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Facility and Infrastructure Standards and Renovations (02-1-009)

The reappropriations in this section are subject to the following conditions and limitations: The department shall expend the reappropriated funds as detailed in section 390, chapter 8, Laws of 2001 2nd sp. sess.

Reappropriation:

Aquatic Lands Enhancement Account—State	\$150,000
State Building Construction Account—State	\$3,290,000
Wildlife Account—State	\$250,000
Subtotal Reappropriation	\$3,690,000
Prior Biennia (Expenditures)	\$8,931,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$12,621,000

NEW SECTION. Sec. 389. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Facility, Infrastructure, Lands, and Access Condition Improvement (04-1-003)

The appropriations in this section are subject to the following conditions and limitations: \$301,000 of the state building construction account appropriation is provided solely for improvements at the Centralia game farm, to include: (1) \$175,000 for a brooder barn to replace numerous houses; (2) \$50,000 to replace flight pens; and (3) \$76,000 to replace to the roofs on several buildings.

Appropriation:

General Fund—Federal	\$600,000
State Building Construction Account—State	\$3,875,000
Subtotal Appropriation	\$4,475,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,475,000

NEW SECTION. Sec. 390. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Fish and Wildlife Opportunity Improvements (04-2-006)

Appropriation:

Warm Water Game Fish Account—State	\$550,000
Wildlife Account—State	\$1,500,000
Subtotal Appropriation	\$2,050,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,050,000

NEW SECTION. Sec. 391. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Forest and Fish Road Upgrade and Abandonment on Agency Lands (02-1-003)

Reappropriation:

State Building Construction Account—State	\$200,000
Prior Biennia (Expenditures)	\$300,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$500,000

NEW SECTION. Sec. 392. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Partnership Improvements with Internal and External Customers (02-2-008)

The reappropriations in this section are subject to the following conditions and limitations: Expenditures of the reappropriation in this section for fencing must comply with chapter 16.60 RCW.

Reappropriation:

Aquatic Lands Enhancement Account—State	\$30,000
State Building Construction Account—State	\$150,000
Game Special Wildlife Account—Federal	\$400,000
Subtotal Reappropriation	\$580,000
Prior Biennia (Expenditures)	\$3,695,400
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,275,400

NEW SECTION. Sec. 393. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Culvert Replacement for Fish Passage (03-S-001)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is provided solely to the department of fish and wildlife to replace culverts on state lands that impair fish passage. The department shall prioritize projects that affect fish species listed as threatened or endangered under the federal endangered species act.

Reappropriation:

State Building Construction Account—State	\$420,000
Prior Biennia (Expenditures)	\$80,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$500,000

NEW SECTION. Sec. 394. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Job Creation and Infrastructure Projects (03-1-001)

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

- (1) The reappropriation shall support the projects as listed in section 212, chapter 238, Laws of 2002.
- (2) The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$970,000
Prior Biennia (Expenditures)	\$2,070,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,040,000

NEW SECTION. Sec. 395. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Watchable Fish and Wildlife Recreation Sites (02-2-007)

Reappropriation:

Wildlife Account—State	\$995,076
Prior Biennia (Expenditures)	\$4,924
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,000,000

NEW SECTION. Sec. 396. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Local and Regional Salmon Recovery Planning (03-H-001)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the conditions and limitations contained in section 133, chapter 238, Laws of 2002.

Reappropriation:

Water Quality Account—State	\$700,000
Prior Biennia (Expenditures)	\$300,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,000,000

NEW SECTION. Sec. 397. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Fish and Wildlife Population and Habitat Protection (04-1-002)

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

(1) \$400,000 of the wildlife account—state appropriation is provided solely for upland wildlife habitat.

(2) \$500,000 of the wildlife account—state appropriation is provided solely to maintain existing mitigation agreements in the Snake river region for upland habitat and additional agreements with landowners.

Appropriation:

General Fund—Federal	\$2,830,000
General Fund—Private/Local	\$3,500,000
State Building Construction Account—State	\$2,400,000
Wildlife Account—State	\$1,700,000
Subtotal Appropriation	\$10,430,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$10,430,000

NEW SECTION. Sec. 398. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Hatchery Reform, Retrofits, and Condition Improvement (04-1-001)

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

(1) \$400,000 of the state building construction account—state appropriation is provided solely for Naselle hatchery.

(2) \$1,300,000 of the state building construction account—state appropriation is provided solely for the Tokul creek hatchery.

(3) The wildlife account—state appropriation is provided solely for design of capture and acclimation ponds at Grandy creek.

Appropriation:

General Fund—Federal	\$4,500,000
General Fund—Private/Local	\$1,500,000

Wildlife Account—State	\$200,000
State Building Construction Account—State	\$7,700,000
Subtotal Appropriation	\$13,900,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$13,900,000

NEW SECTION. Sec. 399. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Internal and External Partnership Improvements (04-1-007)

The appropriations in this section are subject to the following conditions and limitations: Expenditures of the appropriation in this section for fencing shall comply with chapter 16.60 RCW.

Appropriation:

General Fund—Federal	\$4,000,000
General Fund—Private/Local	\$2,000,000
Game Special Wildlife Account—State	\$50,000
Game Special Wildlife Account—Federal	\$400,000
Game Special Wildlife Account—Private/Local	\$50,000
Subtotal Appropriation	\$6,500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$6,500,000

NEW SECTION. Sec. 400. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Washington Department of Fish and Wildlife Energy Savings (04-1-016)

Appropriation:

State Building Construction Account—State	\$500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$500,000

***NEW SECTION. Sec. 401. FOR THE DEPARTMENT OF FISH AND WILDLIFE**

Wind Power Mitigation (04-2-850)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided to support the development and implementation of a wind power alternative mitigation pilot program, the purpose of which is to maximize the habitat value of mitigation funds and streamline the mitigation process for wind power projects. The program must combine the acquisition of strategically important habitat by the department with annual funding from wind developers for restoration, management, and monitoring of these critical habitat areas. The appropriation is for the department to undertake the acquisition component of the program.

Appropriation:

State Building Construction Account—State	\$500,000
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<i>Prior Biennia (Expenditures)</i>	\$0
<i>Future Biennia (Projected Costs)</i>	\$0
TOTAL	\$500,000

*Sec. 401 was vetoed. See message at end of chapter.

NEW SECTION. Sec. 402. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Youth Sport Fishing Program (04-2-017)

Appropriation:

Wildlife Account—State	\$250,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$250,000

NEW SECTION. Sec. 403. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Region 1 Office - Spokane (04-2-009)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for the construction of the eastern region headquarters office complex to be located at Mirabeau Point.

Appropriation:

State Building Construction Account—State	\$3,900,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,900,000

NEW SECTION. Sec. 404. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Deschutes Hatchery (04-2-011)

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

(1) \$350,000 of the state building construction account appropriation is provided solely for the department to contract for a predesign assessment of alternatives for the Deschutes hatchery and the report described in this section.

(2) By September 15, 2004, the department shall report to the legislature and the office of financial management the results of the predesign assessment. The report shall include, but is not limited to:

(a) A determination of facility requirements to comply with water quality standards, including meeting standards for water bodies on the 303(d) list of impaired waters;

(b) Identification of agencies and organizations contributing to the facility, including their role, funding commitments, and sources of funds for the construction and operation of the facility;

(c) Estimated cost of all facilities, proposed funding sources, and construction timeline; and

(d) Identification of fish hatchery facilities and programs to be replaced or modified as a result of construction of the Deschutes hatchery.

(3) The department shall provide a progress report to the legislature and the office of financial management by January 15, 2004.

(4) It is the intent of the legislature that funding for the design of the Deschutes hatchery be considered in the 2005-07 fiscal biennium.

Appropriation:

State Building Construction Account—State	\$350,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$350,000

NEW SECTION. Sec. 405. FOR THE DEPARTMENT OF NATURAL RESOURCES

Forest Legacy (00-2-020 and 02-2-015)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation provides \$184,309 for project number 00-2-020 and \$4,200,000 for project number 02-2-015.

Reappropriation:

General Fund—Federal	\$4,384,309
Prior Biennia (Expenditures)	\$2,885,691
Future Biennia (Projected Costs)	\$0
TOTAL	\$7,270,000

NEW SECTION. Sec. 406. FOR THE DEPARTMENT OF NATURAL RESOURCES

Minor Works (02-2-001)

Reappropriation:

Forest Development Account—State	\$256,230
Resources Management Cost Account—State	\$482,466
State Building Construction Account—State	\$455,575
Agricultural College Trust Management Account—State	\$68,950
Subtotal Reappropriation	\$1,263,221
Prior Biennia (Expenditures)	\$6,006,779
Future Biennia (Projected Costs)	\$0
TOTAL	\$7,270,000

NEW SECTION. Sec. 407. FOR THE DEPARTMENT OF NATURAL RESOURCES

Marine Station Public Access (02-2-019)

Reappropriation:

Aquatic Lands Enhancement Account—State	\$65,000
Prior Biennia (Expenditures)	\$110,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$175,000

NEW SECTION. Sec. 408. FOR THE DEPARTMENT OF NATURAL RESOURCES

Minor Works—Facility Preservation (04-1-002)

Appropriation:

Forest Development Account—State	\$224,900
Resources Management Cost Account—State	\$389,700
State Building Construction Account—State	\$150,000
Agricultural College Trust Management Account—State	\$49,200
Subtotal Appropriation	\$813,800
 Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$813,800

NEW SECTION. Sec. 409. FOR THE DEPARTMENT OF NATURAL RESOURCES

Agricultural Asset Preservation (04-1-017)

Appropriation:

Resource Management Cost Account—State	\$100,000
 Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$100,000

NEW SECTION. Sec. 410. FOR THE DEPARTMENT OF NATURAL RESOURCES

Commercial Development/Local Improvement Districts (04-2-009)

Appropriation:

Resource Management Cost Account—State	\$100,000
 Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$100,000

NEW SECTION. Sec. 411. FOR THE DEPARTMENT OF NATURAL RESOURCES

Communication Site Repairs (04-1-024)

Appropriation:

Forest Development Account—State	\$50,000
Resource Management Cost Account—State	\$150,000
Subtotal Appropriation	\$200,000
 Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$200,000

NEW SECTION. Sec. 412. FOR THE DEPARTMENT OF NATURAL RESOURCES

Community and Technical College Trust Land Acquisition (04-2-014)

Appropriation:

Community and Technical College Forest Reserve Account—State	\$96,000
 Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0

TOTAL\$96,000

NEW SECTION. Sec. 413. FOR THE DEPARTMENT OF NATURAL RESOURCES

Forest Legacy (04-2-015)

Appropriation:

General Fund—Federal \$6,000,000
Prior Biennia (Expenditures)..... \$0
Future Biennia (Projected Costs)..... \$0
TOTAL \$6,000,000

NEW SECTION. Sec. 414. FOR THE DEPARTMENT OF NATURAL RESOURCES

Hazardous Waste Removal (04-1-006)

Appropriation:

Forest Development Account—State \$25,000
Resource Management Cost Account—State \$25,000
Subtotal Appropriation..... \$50,000
Prior Biennia (Expenditures)..... \$0
Future Biennia (Projected Costs)..... \$0
TOTAL \$50,000

NEW SECTION. Sec. 415. FOR THE DEPARTMENT OF NATURAL RESOURCES

Land Bank (04-2-013)

Appropriation:

Resource Management Cost Account—State \$5,000,000
Prior Biennia (Expenditures)..... \$0
Future Biennia (Projected Costs)..... \$0
TOTAL \$5,000,000

NEW SECTION. Sec. 416. FOR THE DEPARTMENT OF NATURAL RESOURCES

Marine Station Public Access (04-2-019)

Appropriation:

Aquatic Lands Enhancement Account—State..... \$100,000
Prior Biennia (Expenditures)..... \$175,000
Future Biennia (Projected Costs)..... \$1,500,000
TOTAL \$1,775,000

NEW SECTION. Sec. 417. FOR THE DEPARTMENT OF NATURAL RESOURCES

Minor Works - Health, Safety, and Code (04-2-001)

Appropriation:

Forest Development Account—State \$133,400
Resource Management Cost Account—State \$232,000
Agricultural College Trust Management Account—State..... \$29,000

Subtotal Appropriation	\$394,400
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$394,400

NEW SECTION. Sec. 418. FOR THE DEPARTMENT OF NATURAL RESOURCES

Mobile Radio System Upgrade (04-2-022)

The appropriations in this section are subject to the following conditions and limitations: The department shall study and evaluate options for a comprehensive user fee system that equally distributes the cost to operate, maintain, and capitalize the radio system to all users on the network. The study must include an evaluation of a user fee system based on access to the network and not on radio inventory. The department shall report the study’s findings and recommendations to the office of financial management by September 15, 2003.

Appropriation:

Forest Development Account—State	\$227,400
Resource Management Cost Account—State	\$386,500
State Building Construction Account—State	\$1,659,800
Subtotal Appropriation	\$2,273,700
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,273,700

NEW SECTION. Sec. 419. FOR THE DEPARTMENT OF NATURAL RESOURCES

Natural Area Facilities Preservation (04-1-016)

The appropriation in this section is subject to the following conditions and limitations: The department shall submit a study of funding source options that fully support the maintenance, operation, and capitalization of its natural area preserve facilities. This study must be submitted to the office of financial management by September 15, 2003.

Appropriation:

State Building Construction Account—State	\$185,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$185,000

NEW SECTION. Sec. 420. FOR THE DEPARTMENT OF NATURAL RESOURCES

Natural Resource Real Property Replacement (04-2-012)

Appropriation:

Natural Resources Real Property Replacement Account—State	\$20,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0

TOTAL \$20,000,000

NEW SECTION. Sec. 421. FOR THE DEPARTMENT OF NATURAL RESOURCES

Trust Land Transfer Program (04-2-010)

The state building construction account appropriation in this section is subject to the following conditions and limitations:

(1) The total appropriation is provided to the department solely to transfer from trust status or enter into thirty-year timber harvest restrictive easements/ leases for certain trust lands of state-wide significance deemed appropriate for state park, fish and wildlife habitat, natural area preserve, natural resources conservation area, open space, or recreation purposes.

(2) Property transferred under this section shall be appraised and transferred at fair market value. The value of the timber transferred shall be deposited by the department to the common school construction account in the same manner as timber revenues from other common school trust lands. No deduction shall be made for the resource management cost account under RCW 79.64.040. The value of the land transferred shall be deposited in the natural resources real property replacement account. These funds shall be expended by the department for the exclusive purpose of acquiring commercial real property of equal value to be managed as common school trust land.

(3) Property subject to easement/lease agreements under this section shall be appraised at fair market value both with and without the imposition of the easement/lease. The entire difference in appraised value shall be deposited by the department to the common school construction fund in the same manner as lease revenues from other common school trust lands. No deduction shall be made for the resource management cost account under RCW 79.64.040.

(4) All reasonable costs incurred by the department to implement this section are authorized to be paid out of this appropriation. Authorized costs include the actual cost of appraisals, staff time, environmental reviews, surveys, and other similar costs.

(5) Intergrant exchanges between common school and other trust lands of equal value may occur if the exchange is in the interest of each trust, as determined by the board of natural resources.

(6) Prior to or concurrent with conveyance of these properties, the department, with full cooperation of the receiving agencies, shall execute and record a real property instrument that dedicates the transferred properties to the purposes identified in subsection (1) of this section for a minimum period of thirty years. The department of natural resources, in consultation with the receiving state agencies, shall develop policy to address requests to replace transferred properties subject to the recorded property instrument that are no longer deemed appropriate for the purposes identified in subsection (1) of this section.

(7) The department and receiving agencies shall work in good faith to carry out the intent of this section. However, the department or receiving agencies may remove a property from the transfer list based on new, substantive information, if it is determined that transfer of the property is not in the statewide interest of either the common school trust or the receiving agency.

(8) The department shall execute trust land transfers and easements/leases such that, after the deduction of reasonable costs as provided in subsection (4) of this section, eighty percent of the appropriation in this section is deposited in the common school construction fund. To achieve the 80:20 ratio, the department may offset transfers of property with low timber-to-land ratios with easements/leases on other properties.

(9) On June 30, 2005, the state treasurer shall transfer all remaining uncommitted funds from this appropriation to the common school construction fund and the appropriation in this section shall be reduced by an equivalent amount.

(10) The appropriation in this section is provided for a list of projects in LEAP capital document No. 2003-17, as developed on June 4, 2003.

(11) The department of natural resources shall manage lands acquired as "Bone river natural area preserve" as a natural resources conservation area under chapter 79.71 RCW.

Appropriation:

State Building Construction Account—State	\$55,000,000
Natural Resources Real Property Replacement Account—State.	\$11,000,000
Subtotal Appropriation	\$66,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$250,000,000
TOTAL	\$316,000,000

NEW SECTION. Sec. 422. FOR THE DEPARTMENT OF NATURAL RESOURCES

Real Estate Repair, Maintenance, and Tenant Improvements (04-1-005)

Appropriation:

Resource Management Cost Account—State	\$1,200,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,200,000

NEW SECTION. Sec. 423. FOR THE DEPARTMENT OF NATURAL RESOURCES

Recreation Facilities Preservation (04-1-011)

The appropriation in this section is subject to the following conditions and limitations: The department shall submit a study of funding source options that will fully support the maintenance, operation, and capitalization of its recreational facilities to the office of financial management by September 15, 2003.

Appropriation:

State Building Construction Account—State	\$225,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$225,000

NEW SECTION. Sec. 424. FOR THE DEPARTMENT OF NATURAL RESOURCES

Right of Way Acquisition (04-2-007)

Appropriation:

Forest Development Account—State	\$100,000
Resource Management Cost Account—State	\$400,000
Subtotal Appropriation	\$500,000
 Prior Biennia (Expenditures)	 \$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$500,000

NEW SECTION. Sec. 425. FOR THE DEPARTMENT OF NATURAL RESOURCES

Riparian Open Space Program (04-2-023)

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

(1) In addition to the annual project progress reporting requirement of RCW 43.88.160(3), the department shall file quarterly project progress reports with the office of financial management.

(2) The department may not expend more than \$100,000 of the appropriation for administrative or staff costs.

(3) The resource management cost account—state appropriation is solely for a riparian inventory system.

Appropriation:

State Building Construction Account—State	\$1,000,000
Resource Management Cost Account—State	\$1,500,000
Subtotal Appropriation	\$2,500,000
 Prior Biennia (Expenditures)	 \$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,500,000

NEW SECTION. Sec. 426. FOR THE DEPARTMENT OF NATURAL RESOURCES

Small Timber Landowner Program (04-2-003)

Appropriation:

State Building Construction Account—State	\$2,000,000
 Prior Biennia (Expenditures)	 \$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,000,000

NEW SECTION. Sec. 427. FOR THE DEPARTMENT OF NATURAL RESOURCES

Statewide Estuarine Restoration Projects (04-2-021)

Appropriation:

Aquatic Lands Enhancement Account—State	\$200,000
 Prior Biennia (Expenditures)	 \$0

Future Biennia (Projected Costs).....	\$0
TOTAL	\$200,000

NEW SECTION. Sec. 428. FOR THE DEPARTMENT OF NATURAL RESOURCES

Wetland Grants (04-2-004)

Appropriation:

General Fund—Federal	\$500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL	\$500,000

***NEW SECTION. Sec. 429. FOR THE DEPARTMENT OF NATURAL RESOURCES**

Digitize Geology Library Collections (04-1-950)

Appropriation:

<i>State Building Construction Account—State</i>	<i>\$900,000</i>
<i>Prior Biennia (Expenditures).....</i>	<i>\$0</i>
<i>Future Biennia (Projected Costs).....</i>	<i>\$0</i>
<i>TOTAL</i>	<i>\$900,000</i>

*Sec. 429 was vetoed. See message at end of chapter.

NEW SECTION. Sec. 430. FOR THE DEPARTMENT OF AGRICULTURE

Fair Improvements (04-4-850)

Appropriation:

State Building Construction Account—State	\$200,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL	\$200,000

**PART 4
TRANSPORTATION**

NEW SECTION. Sec. 501. FOR THE WASHINGTON STATE PATROL

Seattle Toxicology Lab (00-2-009)

Appropriation:

State Building Construction Account—State	\$800,000
Prior Biennia (Expenditures)	\$12,059,864
Future Biennia (Projected Costs).....	\$1,655,000
TOTAL	\$14,514,864

NEW SECTION. Sec. 502. FOR THE WASHINGTON STATE PATROL

Minor Works - Facility Preservation: Fire Training Academy (04-1-001)

Appropriation:

State Building Construction Account—State	\$250,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$250,000

NEW SECTION. Sec. 503. FOR THE WASHINGTON STATE PATROL

Spokane Crime Laboratory Construction (02-2-013)

Appropriation:

State Building Construction Account—State	\$11,365,000
Prior Biennia (Expenditures)	\$635,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$12,000,000

NEW SECTION. Sec. 504. FOR THE WASHINGTON STATE PATROL

Vancouver Crime Lab - Design/Construction (2002-2-010)

Appropriation:

State Building Construction Account—State	\$10,000,000
Prior Biennia (Expenditures)	\$365,000
Future Biennia (Projected Costs)	\$3,135,000
TOTAL	\$13,500,000

NEW SECTION. Sec. 505. FOR THE DEPARTMENT OF TRANSPORTATION

Columbia River Dredging (03-H-001)

The reappropriation in this section is provided solely to fund the second phase of a multiphase cooperative project with the state of Oregon to dredge the Columbia river. The amount in this section lapses unless the state of Oregon appropriates a dollar-for-dollar match to fund its share of the project.

Reappropriation:

State Building Construction Account—State	\$17,700,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$17,700,000

Sec. 506. 2003 c 360 (ESHB 1163) s 306 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—PRESERVATION—PROGRAM P

Transportation 2003 Account (Nickel Account)	\$2,000,000
Motor Vehicle Account—State Appropriation	\$178,909,000
Motor Vehicle Account—Federal Appropriation	\$457,467,000
Motor Vehicle Account—Local Appropriation	\$12,666,000
Multimodal Account—State Appropriation	(\$6,000,000)
	<u>\$1,690,000</u>
Multimodal Account—Federal Appropriation	\$4,247,000

TOTAL APPROPRIATION((\$661,289,000))
\$656,979,000

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

(1) \$178,909,000 of the motor vehicle account—state appropriation, \$457,467,000 of the motor vehicle account—federal appropriation, \$12,666,000 of the motor vehicle account—local appropriation, ((\$6,000,000)) \$1,690,000 of the multimodal transportation account—state appropriation, and \$4,247,000 of the multimodal transportation account—federal appropriation are provided solely to implement the activities and projects included in the Legislative 2003 Transportation Project List - Current Law report transmitted to LEAP on April 27, 2003.

(2) The motor vehicle account—state appropriation includes \$2,850,000 in proceeds from the sale of bonds authorized in RCW 47.10.761 and 47.10.762 for emergency purposes.

(3) The motor vehicle account—state appropriation includes \$77,700,000 in proceeds from the sale of bonds authorized by RCW 47.10.843. The transportation commission may authorize the use of current revenues available to the department of transportation in lieu of bond proceeds for any part of the state appropriation.

(4) The entire transportation 2003 account (nickel account) appropriation is provided solely for the projects and activities as indicated in the Legislative 2003 Transportation Project List - New Law report transmitted to LEAP on April 27, 2003.

(5) The department of transportation shall continue to implement the lowest life cycle cost planning approach to pavement management throughout the state to encourage the most effective and efficient use of pavement preservation funds. Emphasis should be placed on increasing the number of roads addressed on time and reducing the number of roads past due.

(6) Of the amounts appropriated in this section and section 305 of this act, no more than \$124,000 is provided for increased project costs due to the enactment of Substitute Senate Bill No. 5457.

~~((8))~~ (7) To manage some projects more efficiently, federal funds may be transferred from program Z to program P to replace those federal funds in a dollar-for-dollar match. However, funds may not be transferred between federal programs. Fund transfers authorized under this subsection shall not affect project prioritization status. Appropriations shall initially be allotted as appropriated in this act. The department shall not transfer funds as authorized under this subsection without approval of the transportation commission and the director of financial management. The department shall submit a report on those projects receiving fund transfers to the transportation committees of the senate and house of representatives by December 1, 2004.

Sec. 507. 2003 c 360 (ESHB 1163) s 307 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—TRAFFIC OPERATIONS—PROGRAM Q—CAPITAL
Motor Vehicle Account—State Appropriation((\$11,688,000))
\$14,688,000

Motor Vehicle Account—Federal Appropriation	\$14,510,000
((Multimodal Transportation Account—State Appropriation	\$3,000,000))
TOTAL APPROPRIATION	\$29,198,000

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

(1) The amounts provided in this section are provided solely to implement the activities and projects included in the Legislative 2003 Transportation Project List - Current Law report transmitted to LEAP on April 27, 2003.

(2) The motor vehicle account—state appropriation includes \$9,408,000 for state matching funds for federally selected competitive grant or congressional earmark projects other than the commercial vehicle information systems and network. These moneys shall be placed into reserve status until such time as federal funds are secured that require a state match.

Sec. 508. 2003 c 360 (ESHB 1163) s 309 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—RAIL—PROGRAM Y—CAPITAL

Essential Rail Assistance Account—State Appropriation	\$770,000
Multimodal Transportation Account—State Appropriation.	((35,530,000)) <u>\$4,530,000</u>
Multimodal Transportation Account—Federal Appropriation	\$9,499,000
Washington Fruit Express Account—State Appropriation.	\$500,000
TOTAL APPROPRIATION	((46,299,000)) <u>\$45,299,000</u>

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

(1) The multimodal transportation account—state appropriation includes \$30,000,000 in proceeds from the sale of bonds authorized by Senate Bill No. 6062. The transportation commission may authorize the use of current revenues available to the department of transportation in lieu of bond proceeds for any part of the state appropriation.

(2) ~~((5,530,000))~~ \$4,530,000 of the multimodal transportation account—state appropriation, \$9,499,000 of the multimodal transportation account—federal appropriation, \$500,000 of the Washington fruit express account—state appropriation, and \$770,000 of the essential rail assistance account—state appropriation are provided solely for capital projects as listed in the Legislative 2003 Transportation Project List - Current Law as transmitted to the LEAP on April 27, 2003.

(3) ~~((2,000,000))~~ \$1,230,000 of the multimodal transportation account—state appropriation and \$770,000 of the essential rail assistance account—state appropriation is to be placed in reserve status by the office of financial management to be held until the department identifies the location for a new transload facility at either Wenatchee or Quincy. The funds are to be released upon determination of a location and approval by the office of financial management.

(4) \$30,000,000 of the multimodal transportation account—state appropriation is provided solely for capital projects as listed in the Legislative 2003 Transportation Project List - New Law as transmitted to the LEAP on April 27, 2003.

(5) If federal block grant funding for freight or passenger rail is received, the department shall consult with the legislative transportation committee prior to spending the funds on additional projects.

(6) If the department issues a call for projects, applications must be received by the department by November 1, 2003, and November 1, 2004.

NEW SECTION. Sec. 509. FOR THE DEPARTMENT OF TRANSPORTATION

Port of Everett Satellite Rail Barge Facility (04-4-950)

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

(1) The appropriation is provided solely for a rail barge facility to accommodate very large or oversized cargo to complement the port of Everett's existing deep-water marine terminals.

(2) The appropriation is contingent upon an office of financial management finding that:

(a) This project is a necessary expansion for the port to meet the needs of a tenant employing thousands of Washington residents to expand the tenant's operations and to provide very substantial economic benefits to the region; and

(b) The tenant has committed to performing the manufacturing or other programs that this project will serve in the Puget Sound region.

(3) The department shall report to the house of representatives and senate transportation committees, the house of representatives capital committee and the senate ways and means committee at least ten days prior to the transmittal of any funds authorized under this section.

Appropriation:

Multimodal Account—State	\$15,500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$15,500,000

**PART 5
EDUCATION**

NEW SECTION. Sec. 601. FOR THE STATE BOARD OF EDUCATION

Common School Construction Account Deposits

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

(1) \$13,500,000 in fiscal year 2004 and \$13,500,000 in fiscal year 2005 of the education savings account appropriation shall be deposited in the common school construction account.

(2) \$67,415,000 of the education construction account appropriation shall be deposited in the common school construction account.

Appropriation:

Education Savings Account—State	\$27,000,000
Education Construction Account—State	\$67,415,000
Subtotal Appropriation	\$94,415,000
 Prior Biennia (Expenditures)	 \$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$94,415,000

NEW SECTION. Sec. 602. FOR THE STATE BOARD OF EDUCATION

School Construction Assistance Grants (02-4-001)

The reappropriations in this section are for project numbers 00-2-001, 00-2-002, and 02-04-001.

Reappropriation:

State Building Construction Account—State	\$36,946
Common School Construction Account—State	\$246,000,000
Subtotal Reappropriation	\$246,036,946
 Prior Biennia (Expenditures)	 \$645,475,724
Future Biennia (Projected Costs)	\$0
TOTAL	\$891,512,670

NEW SECTION. Sec. 603. FOR THE STATE BOARD OF EDUCATION

State Bonds for Common School Construction (04-4-950)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for deposit in the common school construction account.

Appropriation:

State Building and Construction Account—State	\$118,050,000
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NEW SECTION. Sec. 604. FOR THE STATE BOARD OF EDUCATION

Resource Efficiency Pilot Project (04-4-851)

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

(1) \$1,350,000 of this appropriation is provided solely for costs directly associated with the design and construction of five public K-12 schools that meet or exceed comprehensive design standards for high performance and sustainable school building standards.

(2) Up to \$150,000 of this appropriation shall be used to:

(a) Develop a technical manual to facilitate the use of high performance and sustainable school building standards by K-12 schools;

(b) Develop incentives for school districts participating in this program to construct buildings that achieve a significant life-cycle savings over current practices;

(c) Integrate the technical manual with other applicable K-12 construction manuals, rules, and policies;

(d) Report to the appropriate standing committees of the legislature on the potential for sustainable building practices to reduce expenditures for school construction.

The board may contract with one or more entities to fulfill the requirements of subsection (2) of this section and may require match funding of up to one hundred percent for participating nongovernmental entities.

Appropriation:

State Building Construction Account—State	\$1,500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,500,000

NEW SECTION. Sec. 605. LEGISLATIVE INTENT. The legislature reaffirms that provision of facilities for public schools is a partnership between local school districts and the state, and recognizes the importance of safe and well-functioning school facilities in the education of students. The legislature expands on the small step taken in 2001 that increased funding for kindergarten space by increasing the state assistance provided through the school construction grant program for all grade levels in the 2003-05 biennium. In this act, the legislature uses bonds to offset shortfalls in traditional school funding resources and to fund an increase in the formula for providing school construction grants to local districts. The legislature intends to permanently fund the increase in area cost allowance authorized in section 606(3) of this act, and intends to continue to review ways to enhance state assistance for school construction in the future.

NEW SECTION. Sec. 606. FOR THE STATE BOARD OF EDUCATION

School Construction Assistance Grants (04-4-001)

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

- (1) For state assistance grants for purposes of calculating square foot eligibility, kindergarten student headcount shall not be reduced by fifty percent.
- (2) \$2,000,000 from this appropriation is provided for skills centers capital improvements. Skills centers shall submit a budget plan to the state board of education and the appropriate fiscal committees of the legislature for proposed expenditures and the proposed expenditures shall conform with state board of education rules and procedures for reimbursement of capital items. Funds not expended by June 30, 2005, shall lapse.
- (3) \$32,868,105 of this appropriation is provided solely to increase the area cost allowance by \$15.00 per square foot for grades K-12 for fiscal year 2004 and an additional \$4.49 per square foot for grades K-12 for fiscal year 2005.
- (4) The appropriation in this section includes the amounts deposited in the common school construction account under section 603 of this act.

Appropriation:

Common School Construction Account—State	\$399,768,513
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$1,258,456,614

TOTAL\$2,258,225,127

NEW SECTION. Sec. 607. FOR THE STATE BOARD OF EDUCATION

Port Angeles School District North Olympic Skill Center (04-4-852)

The appropriation in this section is subject to the following conditions and limitations: This appropriation completes the state contribution to this project.

Appropriation:

State Building Construction Account—State	\$2,000,000
Prior Biennia (Expenditures)	\$3,000,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,000,000

NEW SECTION. Sec. 608. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

State School Construction Assistance Program Staff

The reappropriation in this section is for project number 02-4-001. The appropriation is for project number 04-2-001.

Reappropriation:

Common School Construction Account—State\$100,000

Appropriation:

Common School Construction Account—State	\$2,038,390
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,138,390

NEW SECTION. Sec. 609. FOR THE STATE SCHOOL FOR THE BLIND

Ahlsten: Material Center and Braille Production (02-2-003)

Reappropriation:

State Building Construction Account—State	\$1,084,179
Prior Biennia (Expenditures)	\$1,257,009
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,341,188

NEW SECTION. Sec. 610. FOR THE STATE SCHOOL FOR THE BLIND

Campus Preservation (02-1-002)

Reappropriation:

State Building Construction Account—State	\$401,426
Prior Biennia (Expenditures)	\$198,574
Future Biennia (Projected Costs)	\$0
TOTAL	\$600,000

NEW SECTION. Sec. 611. FOR THE STATE SCHOOL FOR THE BLIND

Distance Learning Center/Covered Play Area (02-2-004)

Reappropriation:

State Building Construction Account—State	\$2,213,226
Prior Biennia (Expenditures)	\$575,774
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,789,000

NEW SECTION. Sec. 612. FOR THE STATE SCHOOL FOR THE BLIND

Irwin: Old Main, Kennedy, and Dry Building Preservation (02-1-001)

Reappropriation:

State Building Construction Account—State	\$233,555
Prior Biennia (Expenditures)	\$1,747,445
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,981,000

NEW SECTION. Sec. 613. FOR THE STATE SCHOOL FOR THE BLIND

Boiler House Renovation/Electrical Vault Replacement (04-1-001)

Appropriation:

State Building Construction Account—State	\$668,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$668,000

NEW SECTION. Sec. 614. FOR THE STATE SCHOOL FOR THE BLIND

Campus Preservation (04-1-004)

Appropriation:

State Building Construction Account—State	\$770,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$2,830,000
TOTAL	\$3,600,000

NEW SECTION. Sec. 615. FOR THE STATE SCHOOL FOR THE BLIND

Kennedy, Dry, and Irwin Buildings Preservation (04-1-002)

Appropriation:

State Building Construction Account—State	\$2,279,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,279,000

NEW SECTION. Sec. 616. FOR THE UNIVERSITY OF WASHINGTON

UW Law School Building (94-2-017)

Reappropriation:

Higher Education Construction Account—State	\$6,600,000
Higher Education Non-Proprietary Local Capital Accounts—Private/Local	\$3,400,000
Subtotal Reappropriation	\$10,000,000
Prior Biennia (Expenditures)	\$64,855,500
Future Biennia (Projected Costs)	\$0
TOTAL	\$74,855,500

NEW SECTION. Sec. 617. FOR THE UNIVERSITY OF WASHINGTON

UW Tacoma Campus Phase 2A (00-2-017)

The reappropriation in this section is subject to the following conditions and limitations: No money from the reappropriation in this section may be expended that would be inconsistent with the recommendations of the higher education coordinating board and the project design, scope, and schedule approved by the office of financial management.

Reappropriation:

State Building Construction Account—State	\$3,000,000
Prior Biennia (Expenditures)	\$34,635,933
Future Biennia (Projected Costs)	\$0
TOTAL	\$37,635,933

NEW SECTION. Sec. 618. FOR THE UNIVERSITY OF WASHINGTON

UW Tacoma Land Acquisition (01-2-029)

Reappropriation:

Education Construction Account—State	\$4,450,000
Prior Biennia (Expenditures)	\$1,500,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,950,000

NEW SECTION. Sec. 619. FOR THE UNIVERSITY OF WASHINGTON

UW Emergency Power Expansion - Phase 1 (02-1-009)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

University of Washington Building Account—State	\$5,300,000
Prior Biennia (Expenditures)	\$5,700,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$11,000,000

***NEW SECTION. Sec. 620. FOR THE UNIVERSITY OF WASHINGTON**

UW Bothell Phase 2B Offramp (02-2-014)

The reappropriation in this section is subject to the following conditions and limitations: The legislature intends to appropriate funds for construction of this project in a future transportation budget.

Reappropriation:

State Building Construction Account—State	\$2,390,000
Prior Biennia (Expenditures)	\$110,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,500,000

*Sec. 620 was vetoed. See message at end of chapter.

NEW SECTION. Sec. 621. FOR THE UNIVERSITY OF WASHINGTON

UW Life Sciences II Building (02-2-028)

The reappropriation in this section is subject to the University of Washington providing sufficient evidence to the office of financial management of local revenue to support issuance of bonded debt and accompanying debt service associated with this project.

Reappropriation:

Higher Education Construction Account—State	\$29,025,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$40,000,000
TOTAL	\$69,025,000

NEW SECTION. Sec. 622. FOR THE UNIVERSITY OF WASHINGTON

UW Minor Repairs Programs (02-1-026)

Reappropriation:

State Building Construction Account—State	\$520,000
Prior Biennia (Expenditures)	\$480,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,000,000

NEW SECTION. Sec. 623. FOR THE UNIVERSITY OF WASHINGTON

UW Special Projects - Code Requirements (02-1-025)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$1,000,000
Prior Biennia (Expenditures)	\$1,000,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,000,000

NEW SECTION. Sec. 624. FOR THE UNIVERSITY OF WASHINGTON

UW Tacoma Campus Phase 2B (02-2-027)

Reappropriation:

State Building Construction Account—State	\$35,000,000
Prior Biennia (Expenditures)	\$9,349,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$44,349,000

NEW SECTION. Sec. 625. FOR THE UNIVERSITY OF WASHINGTON

UW Urgent Deferred Renewal/Modernization (02-1-031)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

University of Washington Building Account—State	\$1,500,000
Education Construction Account—State	\$4,000,000
Subtotal Reappropriation	\$5,500,000
Prior Biennia (Expenditures)	\$4,500,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$10,000,000

NEW SECTION. Sec. 626. FOR THE UNIVERSITY OF WASHINGTON

Job Creation and Infrastructure Projects (03-1-001)

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

(1) The reappropriation in this section is subject to the conditions and limitations of section 218, chapter 238, Laws of 2002.

(2) The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

Education Construction Account—State	\$1,400,000
Prior Biennia (Expenditures)	\$2,100,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,500,000

NEW SECTION. Sec. 627. FOR THE UNIVERSITY OF WASHINGTON

UW Johnson Hall Renovation (04-1-005)

Appropriation:

State Building Construction Account—State	\$16,103,000
University of Washington Building Account—State	\$15,552,000
Gardner-Evans Higher Education Construction Account—State	\$21,400,000
Subtotal Appropriation	\$53,055,000

Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$53,055,000

NEW SECTION. Sec. 628. FOR THE UNIVERSITY OF WASHINGTON

UW Emergency Power Expansion - Phase II (04-1-024)

Reappropriation:

University of Washington Building Account—State	\$700,000
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Appropriation:

State Building Construction Account—State	\$3,500,000
University of Washington Building Account—State	\$2,448,000
Subtotal Appropriation	\$5,948,000

Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$7,813,164
TOTAL	\$14,161,164

NEW SECTION. Sec. 629. FOR THE UNIVERSITY OF WASHINGTON

Preventive Facility Maintenance and Building System Repairs (04-1-950)

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

(1) Pursuant to definitions and provisions in section 925 of this act, the appropriation is provided solely to maintain facilities housing educational and general programs and to maintain its major building systems. Building maintenance, mechanical adjustments, repairs, and minor works for the facility or its major building systems must extend the remaining useful life of the facility or keep it safe and functioning normally.

(2) With this appropriation and that provided in section 630 of this act, the legislature intends to improve the average condition of state facilities as compared to the baseline conditions documented in report 03-1 of the joint legislative audit and review committee. Preventive facility maintenance project funds shall be allocated at local discretion to achieve the above stated performance goal, with particular attention given to buildings currently rated in superior to adequate condition so as to maximize useful life given both the passage of time and intensity with which the space is used.

(3) Section 915 of this act does not apply to this appropriation.

(4) The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Appropriation:

Education Construction Account—State	\$20,108,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$20,108,000

NEW SECTION. Sec. 630. FOR THE UNIVERSITY OF WASHINGTON

Facility Preservation Backlog Reduction (04-1-951)

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

(1) Pursuant to definitions and provisions in section 925 of this act, the appropriation is provided solely to accomplish preservation work that improves existing state facilities in the worst relative condition for housed programs and current building occupants.

(2) With this appropriation and that provided in section 629 of this act, the legislature intends to improve the average condition of state facilities as compared to the baseline conditions documented in report 03-1 of the joint legislative audit and review committee. Preservation backlog reduction project funds shall be prioritized at local discretion to achieve the above stated goal, with particular attention given to buildings currently rated in adequate to marginal condition.

(3) This section is subject to the same allotment procedures as a minor works category except for subsections (4) and (5) of this section which shall follow allotment procedures for a major project.

(4) Predesign studies may be undertaken to consider replacement alternatives and strategies to improve conditions for current building occupants. An allotment for predesign is subject to the filing, review, and approval of a project request report by the office of financial management.

(5) Up to \$10,943,000 of the appropriation may be used for the following design studies and other eligible projects:

- (a) Health science H-Wing infrastructure;
- (b) Guggenheim hall renovation;
- (c) Architecture hall renovation;

(6) An allotment for design under subsection (5) of this section is subject to the filing, review, and approval of a project request report and a predesign study by the office of financial management.

(7) Up to \$1,000,000 of the appropriation may be spent for any minor capital project in a facility housing educational and general programs of the institution.

(8) Section 915 of this act does not apply to this appropriation.

Appropriation:

State Building Construction Account—State	\$28,600,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$200,700,000
TOTAL	\$229,300,000

NEW SECTION. Sec. 631. FOR THE UNIVERSITY OF WASHINGTON

Infrastructure Savings (04-1-952)

The appropriation in this section is subject to the following conditions and limitations: Projects that are completed in accordance with section 915 of this act may have their remaining funds transferred to this appropriation for other preservation projects approved by the office of financial management.

Appropriation:

State Building Construction Account—State	\$1
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Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1

NEW SECTION. Sec. 632. FOR THE UNIVERSITY OF WASHINGTON

Minor Works - Program (04-2-004)

Appropriation:

State Building Construction Account—State	\$6,500,000
University of Washington Building Account—State.	\$4,000,000
Subtotal Appropriation	\$10,500,000

Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$20,975,000
TOTAL	\$31,475,000

NEW SECTION. Sec. 633. FOR THE UNIVERSITY OF WASHINGTON

UW Campus Communications Infrastructure (04-1-011)

Appropriation:

State Building Construction Account—State	\$5,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$20,000,000
TOTAL	\$25,000,000

NEW SECTION. Sec. 634. FOR WASHINGTON STATE UNIVERSITY

WSU Pullman - Murrow Hall Addition: New Facility (98-2-008)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$4,000,000
Prior Biennia (Expenditures)	\$8,560,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$12,560,000

NEW SECTION. Sec. 635. FOR WASHINGTON STATE UNIVERSITY

WSU Pullman - Education Addition Cleveland Hall (98-2-032)

Reappropriation:

State Building Construction Account—State	\$250,000
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Appropriation:

Gardner-Evans Higher Education Construction Account—State	\$11,160,000
Prior Biennia (Expenditures)	\$1,290,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$12,700,000

NEW SECTION. Sec. 636. FOR WASHINGTON STATE UNIVERSITY

WSU Pullman - Johnson Hall Addition - Plant Bioscience Building (00-2-007)

The appropriations in this section are subject to the following conditions and limitations: Allotment for this appropriation is contingent on the commitment of at least \$10,000,000 in federal funds for a related facility or addition.

Reappropriation:

State Building Construction Account—State \$1,200,000

Appropriation:

Gardner-Evans Higher Education Construction Account—State. \$14,000,000

State Building Construction Account—State \$5,542,000

Washington State University Building Account—State \$15,658,000

Subtotal Appropriation. \$35,200,000

Prior Biennia (Expenditures) \$2,600,000

Future Biennia (Projected Costs) \$0

TOTAL \$39,000,000

NEW SECTION. Sec. 637. FOR WASHINGTON STATE UNIVERSITY

WSU Pullman - Shock Physics Building (00-2-080)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

Washington State University Building Account—State \$500,000

Prior Biennia (Expenditures) \$11,900,000

Future Biennia (Projected Costs) \$0

TOTAL \$12,400,000

NEW SECTION. Sec. 638. FOR WASHINGTON STATE UNIVERSITY

WSU Vancouver - Engineering and Life Sciences Building (00-2-904)

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

(1) No money from the reappropriation may be expended that would be inconsistent with the recommendations of the higher education coordinating board and the project design, scope, and schedule approved by the office of financial management.

(2) The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State \$3,000,000

Prior Biennia (Expenditures)	\$26,470,650
Future Biennia (Projected Costs)	\$0
TOTAL	\$29,470,650

NEW SECTION. Sec. 639. FOR WASHINGTON STATE UNIVERSITY

WSU Vancouver - Student Services Center (00-2-905)

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

(1) No money from the reappropriation may be expended that would be inconsistent with the recommendations of the higher education coordinating board and the project design, scope, and schedule approved by the office of financial management.

(2) The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$950,000
Prior Biennia (Expenditures)	\$605,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,555,000

NEW SECTION. Sec. 640. FOR WASHINGTON STATE UNIVERSITY

WSU Pullman - Minor Capital Preservation/Renewal (02-1-004)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

Washington State University Building Account—State	\$200,000
Prior Biennia (Expenditures)	\$5,800,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$6,000,000

NEW SECTION. Sec. 641. FOR WASHINGTON STATE UNIVERSITY

WSU Pullman - Minor Capital Safety/Environmental Projects (02-1-001)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

Education Construction Account—State	\$200,000
Prior Biennia (Expenditures)	\$800,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,000,000

NEW SECTION. Sec. 642. FOR WASHINGTON STATE UNIVERSITY

WSU Pullman - Campus Infrastructure: Preservation (02-1-073)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

Washington State University Building Account—State	\$1,000,000
State Building Construction Account—State	\$1,600,000
Subtotal Reappropriation	\$2,600,000
Prior Biennia (Expenditures)	\$9,150,141
Future Biennia (Projected Costs)	\$0
TOTAL	\$11,750,141

NEW SECTION. Sec. 643. FOR WASHINGTON STATE UNIVERSITY

WSU Pullman - Energy Plant (02-1-501)

Reappropriation:

State Building Construction Account—State	\$14,500,000
Prior Biennia (Expenditures)	\$10,039,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$24,539,000

NEW SECTION. Sec. 644. FOR WASHINGTON STATE UNIVERSITY

WSU Branch Campuses: Minor Campus Projects (02-1-901)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

Washington State University Building Account—State	\$300,000
Prior Biennia (Expenditures)	\$700,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,000,000

NEW SECTION. Sec. 645. FOR WASHINGTON STATE UNIVERSITY

WSU Pullman - Minor Capital Improvements (MCI) (02-2-002)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

Washington State University Building Account—State	\$1,300,000
Prior Biennia (Expenditures)	\$4,700,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$6,000,000

NEW SECTION. Sec. 646. FOR WASHINGTON STATE UNIVERSITY

WSU Vancouver - Multimedia/Electronic Communication Classroom Building (02-2-907)

The reappropriation in this section is subject to the following conditions and limitations: No money from the reappropriation may be expended that would be inconsistent with the recommendations of the higher education coordinating board and the project design, scope, and schedule approved by the office of financial management.

Reappropriation:

State Building Construction Account—State	\$1,500,000
Prior Biennia (Expenditures)	\$14,400,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$15,900,000

NEW SECTION. Sec. 647. FOR WASHINGTON STATE UNIVERSITY

Job Creation and Infrastructure Projects (03-1-001)

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

(1) The reappropriation in this section is subject to the conditions and limitations in section 219, chapter 238, Laws of 2002.

(2) The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

Education Construction Account—State	\$200,000
Prior Biennia (Expenditures)	\$2,800,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,000,000

NEW SECTION. Sec. 648. FOR WASHINGTON STATE UNIVERSITY

WSU Pullman - Biotechnology/Life Sciences 1 (04-2-085)

Appropriation:

Washington State University Building Account—State	\$4,500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$45,000,000
TOTAL	\$49,500,000

NEW SECTION. Sec. 649. FOR WASHINGTON STATE UNIVERSITY

WSU Pullman - Campus Infrastructure (04-1-073)

Appropriation:

State Building Construction Account—State	\$3,000,000
Prior Biennia (Expenditures)	\$0

Future Biennia (Projected Costs).....	\$12,000,000
TOTAL	\$15,000,000

NEW SECTION. Sec. 650. FOR WASHINGTON STATE UNIVERSITY

Preventive Facility Maintenance and Building System Repairs (04-1-950)

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

(1) Pursuant to definitions and provisions in section 925 of this act, the appropriation is provided solely to maintain facilities housing educational and general programs and to maintain its major building systems. Building maintenance, mechanical adjustments, repairs, and minor works for the facility or its major building systems must extend the remaining useful life of the facility or keep it safe and functioning normally.

(2) With this appropriation and that provided in section 651 of this act, the legislature intends to improve the average condition of state facilities as compared to the baseline conditions documented in report 03-1 of the joint legislative audit and review committee. Preventive facility maintenance project funds shall be allocated at local discretion to achieve the above stated performance goal, with particular attention given to buildings currently rated in superior to adequate condition so as to maximize useful life given both the passage of time and intensity with which the space is used.

(3) Section 915 of this act does not apply to this appropriation.

(4) The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Appropriation:

Education Construction Account—State.....	\$7,876,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL	\$7,876,000

NEW SECTION. Sec. 651. FOR WASHINGTON STATE UNIVERSITY

Facility Preservation Backlog Reduction (04-1-951)

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

(1) Pursuant to definitions and provisions in section 925 of this act, the appropriation is provided solely to accomplish preservation work that improves existing state facilities in the worst relative condition for housed programs and current building occupants.

(2) With this appropriation and that provided in section 650 of this act, the legislature intends to improve the average condition of state facilities as compared to the baseline conditions documented in report 03-1 of the joint legislative audit and review committee. Preservation backlog reduction project funds shall be prioritized at local discretion to achieve the above stated goal, with particular attention given to buildings currently rated in adequate to marginal condition.

(3) This section is subject to the same allotment procedures as a minor works category except for subsections (4) and (5) of this section which shall follow allotment procedures for a major project.

(4) Predesign studies may be undertaken to consider replacement alternatives and strategies to improve conditions for current building occupants. An allotment for predesign is subject to the filing, review, and approval of a project request report by the office of financial management.

(5) Up to \$14,615,000 of the appropriation may be used for the following design studies and other eligible projects:

- (a) Holland library renovation;
- (b) Public safety-LARC remodel;
- (c) Nuclear radiation center;
- (d) Avery hall renovation;
- (e) BioMedical science facility;
- (f) Hospital renovation study;

(6) An allotment for design under subsection (5) of this section is subject to the filing, review, and approval of a project request report and a predesign study by the office of financial management.

(7) Up to \$1,000,000 of the appropriation may be spent for any minor capital project in a facility housing educational and general programs of the institution.

(8) Section 915 of this act does not apply to this appropriation.

Appropriation:

State Building Construction Account—State	\$37,235,000
Washington State University Building Account—	
State	\$4,765,000
Subtotal Appropriation	\$42,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$259,000,000
TOTAL	\$301,000,000

NEW SECTION. Sec. 652. FOR WASHINGTON STATE UNIVERSITY

WSU Vancouver - Campus Utilities/Infrastructure: Infrastructure (04-2-916)

Appropriation:

Gardner-Evans Higher Education Construction	
Account—State	\$4,300,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$14,000,000
TOTAL	\$18,300,000

NEW SECTION. Sec. 653. FOR WASHINGTON STATE UNIVERSITY

WSU TriCities - Bioproducts and Sciences Building (04-2-940)

Appropriation:

Gardner-Evans Higher Education Construction	
Account—State	\$900,000

Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs).	\$34,349,000
TOTAL	\$35,249,000

NEW SECTION. Sec. 654. FOR WASHINGTON STATE UNIVERSITY

WSU ICN Spokane - Nursing Building at Riverpoint: New Facility (04-2-941)

Appropriation:

Gardner-Evans Higher Education Construction Account—State	\$3,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs).	\$31,600,000
TOTAL	\$34,600,000

NEW SECTION. Sec. 655. FOR WASHINGTON STATE UNIVERSITY

WSU Prosser - Multipurpose Building: New Facility (04-2-942)

Appropriation:

State Building Construction Account—State	\$1,500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs).	\$0
TOTAL	\$1,500,000

NEW SECTION. Sec. 656. FOR WASHINGTON STATE UNIVERSITY

Omnibus Equipment and Program Improvements (04-2-951)

The appropriation in this section is subject to the following conditions and limitations: Except for vehicles, laptop computers, small printers, disposable items, or other items with a useful life of less than one year, appropriated funds may be applied to the purchase of equipment to improve, upgrade, or replace necessary instructional and research apparatus throughout the university.

Appropriation:

Washington State University Building Account—State	\$4,380,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs).	\$10,928,500
TOTAL	\$15,308,500

NEW SECTION. Sec. 657. FOR WASHINGTON STATE UNIVERSITY

Infrastructure Savings (04-1-952)

The appropriation in this section is subject to the following conditions and limitations: Projects that are completed in accordance with section 915 of this act may have their remaining funds transferred to this appropriation for other preservation projects approved by the office of financial management.

Appropriation:

State Building Construction Account—State	\$1
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1

NEW SECTION, Sec. 658. FOR EASTERN WASHINGTON UNIVERSITY

EWU Computing and Engineering Sciences Building (Cheney Hall) (00-2-009)

Reappropriation:

State Building Construction Account—State	\$1,675,000
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Appropriation:

Gardner-Evans Higher Education Construction Account—State	\$19,000,482
Prior Biennia (Expenditures)	\$2,225,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$22,900,482

NEW SECTION, Sec. 659. FOR EASTERN WASHINGTON UNIVERSITY

EWU Senior Hall Renovation (00-1-003)

Reappropriation:

State Building Construction Account—State	\$730,000
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Appropriation:

State Building Construction Account—State	\$6,000,000
Prior Biennia (Expenditures)	\$581,000
Future Biennia (Projected Costs)	\$8,480,315
TOTAL	\$15,791,315

NEW SECTION, Sec. 660. FOR EASTERN WASHINGTON UNIVERSITY

EWU Campus Network Upgrade (02-2-004)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$1,000,000
Prior Biennia (Expenditures)	\$1,500,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,500,000

NEW SECTION, Sec. 661. FOR EASTERN WASHINGTON UNIVERSITY

EWU Classroom Renewal (02-2-007)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$775,000
Eastern Washington University Capital Projects Account—State.	\$75,000
Subtotal Reappropriation	\$850,000
Prior Biennia (Expenditures).	\$1,516,000
Future Biennia (Projected Costs).	\$0
TOTAL	\$2,366,000

NEW SECTION. Sec. 662. FOR EASTERN WASHINGTON UNIVERSITY

EWU Infrastructure Preservation (02-1-002)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

Education Construction Account—State.	\$1,400,000
Prior Biennia (Expenditures).	\$3,600,000
Future Biennia (Projected Costs).	\$0
TOTAL	\$5,000,000

NEW SECTION. Sec. 663. FOR EASTERN WASHINGTON UNIVERSITY

EWU Roof Replacement (02-1-004)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$250,000
Prior Biennia (Expenditures).	\$2,369,000
Future Biennia (Projected Costs).	\$6,000,000
TOTAL	\$8,619,000

NEW SECTION. Sec. 664. FOR EASTERN WASHINGTON UNIVERSITY

EWU Water System Preservation and Expansion (02-1-008)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$1,250,000
Prior Biennia (Expenditures).	\$986,000
Future Biennia (Projected Costs).	\$7,500,000
TOTAL	\$9,736,000

NEW SECTION. Sec. 665. FOR EASTERN WASHINGTON UNIVERSITY

EWU Minor Works - Preservation (02-1-003)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$600,000
Eastern Washington University Capital Projects Account—State	\$1,250,000
Subtotal Reappropriation	\$1,850,000
Prior Biennia (Expenditures)	\$3,150,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,000,000

NEW SECTION. Sec. 666. FOR EASTERN WASHINGTON UNIVERSITY

EWU Minor Works - Program (02-2-008)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

Eastern Washington University Capital Projects Account—State	\$600,000
Prior Biennia (Expenditures)	\$1,618,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,218,000

NEW SECTION. Sec. 667. FOR EASTERN WASHINGTON UNIVERSITY

Infrastructure Savings (03-1-001)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$1,028,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,028,000

NEW SECTION. Sec. 668. FOR EASTERN WASHINGTON UNIVERSITY

EWU Campus Network Upgrade (04-2-003)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely to modernize the computing

environment supporting student services (enterprise system) during the 2003-05 biennium.

Appropriation:

Eastern Washington University Capital Projects Account—	
State	\$3,875,000
Prior Biennia (Expenditures)	\$2,500,000
Future Biennia (Projected Costs)	\$4,000,000
TOTAL	\$10,375,000

NEW SECTION. Sec. 669. FOR EASTERN WASHINGTON UNIVERSITY

EWU Classroom Renewal (04-2-013)

Appropriation:

Eastern Washington University Capital Projects	
Account—State	\$691,325
Prior Biennia (Expenditures)	\$3,016,000
Future Biennia (Projected Costs)	\$8,200,000
TOTAL	\$11,907,325

NEW SECTION. Sec. 670. FOR EASTERN WASHINGTON UNIVERSITY

EWU Infrastructure Preservation (04-1-006)

Appropriation:

State Building Construction Account—State	\$1,550,000
Prior Biennia (Expenditures)	\$1,300,000
Future Biennia (Projected Costs)	\$12,000,000
TOTAL	\$14,850,000

NEW SECTION. Sec. 671. FOR EASTERN WASHINGTON UNIVERSITY

EWU Minor Works - Program (04-2-017)

Appropriation:

Eastern Washington University Capital Projects	
Account—State	\$650,000
Prior Biennia (Expenditures)	\$4,189,000
Future Biennia (Projected Costs)	\$9,000,000
TOTAL	\$13,839,000

NEW SECTION. Sec. 672. FOR EASTERN WASHINGTON UNIVERSITY

Preventive Facility Maintenance and Building System Repairs (04-1-950)

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

(1) Pursuant to definitions and provisions in section 925 of this act, the appropriation is provided solely to maintain facilities housing educational and general programs and to maintain its major building systems. Building maintenance, mechanical adjustments, repairs, and minor works for the facility

or its major building systems must extend the remaining useful life of the facility or keep it safe and functioning normally.

(2) With this appropriation and that provided in section 673 of this act, the legislature intends to improve the average condition of state facilities as compared to the baseline conditions documented in report 03-1 of the joint legislative audit and review committee. Preventive facility maintenance project funds shall be allocated at local discretion to achieve the above stated performance goal, with particular attention given to buildings currently rated in superior to adequate condition so as to maximize useful life given both the passage of time and intensity with which the space is used.

(3) Section 915 of this act does not apply to this appropriation.

(4) The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Appropriation:

Education Construction Account—State	\$1,726,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,726,000

NEW SECTION. Sec. 673. FOR EASTERN WASHINGTON UNIVERSITY

Facility Preservation Backlog Reduction (04-1-952)

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

(1) Pursuant to definitions and provisions in section 925 of this act, the appropriation is provided solely to accomplish preservation work that improves existing state facilities in the worst relative condition for housed programs and current building occupants.

(2) With this appropriation and that provided in section 672 of this act, the legislature intends to improve the average condition of state facilities as compared to the baseline conditions documented in report 03-1 of the joint legislative audit and review committee. Preservation backlog reduction project funds shall be prioritized at local discretion to achieve the above stated goal, with particular attention given to buildings currently rated in adequate to marginal condition.

(3) This section is subject to the same allotment procedures as a minor works category except for subsections (4) and (5) of this section which shall follow allotment procedures for a major project.

(4) Predesign studies may be undertaken to consider replacement alternatives and strategies to improve conditions for current building occupants. An allotment for predesign is subject to the filing, review, and approval of a project request report by the office of financial management.

(5) Up to \$212,500 of the appropriation may be spent for any minor capital project in a facility housing educational and general programs of the institution.

(6) Section 915 of this act does not apply to this appropriation.

Appropriation:

State Building Construction Account—State	\$4,250,000
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Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$18,500,000
TOTAL	\$22,750,000

NEW SECTION. Sec. 674. FOR EASTERN WASHINGTON UNIVERSITY

EWU University Visitor Center and Formal Entry (04-2-010)

Appropriation:

Eastern Washington University Capital Projects	
Account—State	\$975,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$975,000

NEW SECTION. Sec. 675. FOR EASTERN WASHINGTON UNIVERSITY

Infrastructure Savings (04-1-953)

The appropriation in this section is subject to the following conditions and limitations: Projects that are completed in accordance with section 915 of this act may have their remaining funds transferred to this appropriation for other preservation projects approved by the office of financial management.

Appropriation:

State Building Construction Account—State	\$1
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1

NEW SECTION. Sec. 676. FOR EASTERN WASHINGTON UNIVERSITY

Minor Works - Health, Safety, and Code (04-1-850)

Appropriation:

State Building Construction Account—State	\$391,325
Eastern Washington University Capital Projects Account—	
State	\$108,675
Subtotal Appropriation	\$500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$2,000,000
TOTAL	\$2,500,000

NEW SECTION. Sec. 677. FOR CENTRAL WASHINGTON UNIVERSITY

Music Education Facility (00-2-001)

The appropriations in this section are subject to the following conditions and limitations: Allowable expenditure for equipment is limited to \$2,400,000 and does not include moving costs, small musical instruments, vehicles, laptop computers, small printers, disposable items, or other items with a useful life of less than one year.

Reappropriation:

Education Construction Account—State \$11,350,000

Appropriation:

Gardner-Evans Higher Education Construction
Account—State \$12,600,000

Prior Biennia (Expenditures) \$2,650,000

Future Biennia (Projected Costs) \$0

TOTAL \$26,600,000

NEW SECTION. Sec. 678. FOR CENTRAL WASHINGTON UNIVERSITY

CWU/Des Moines Higher Education Center (02-2-101)

Reappropriation:

State Building Construction Account—State \$2,500,000

Appropriation:

State Building Construction Account—State \$1,438,000

Community and Technical College Capital Projects
Account—State \$2,962,000

Central Washington University Capital Projects
Account—State \$3,600,000

Subtotal Appropriation \$8,000,000

Prior Biennia (Expenditures) \$75,000

Future Biennia (Projected Costs) \$0

TOTAL \$10,575,000

NEW SECTION. Sec. 679. FOR CENTRAL WASHINGTON UNIVERSITY

McConnell Stage Remodel (02-1-004)

Reappropriation:

State Building Construction Account—State \$1,800,000

Prior Biennia (Expenditures) \$300,000

Future Biennia (Projected Costs) \$0

TOTAL \$2,100,000

NEW SECTION. Sec. 680. FOR CENTRAL WASHINGTON UNIVERSITY

Omnibus - Preservation (02-1-001)

Reappropriation:

Central Washington University Capital Projects
Account—State \$130,000

Prior Biennia (Expenditures) \$3,645,000

Future Biennia (Projected Costs) \$0

TOTAL \$3,775,000

NEW SECTION. Sec. 681. FOR CENTRAL WASHINGTON UNIVERSITY

Omnibus - Program (02-2-002)

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

(1) \$350,000 of this reappropriation is provided for interior classroom improvements within the Olympic south building of Pierce College at Fort Steilacoom.

(2) The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

Central Washington University Capital Projects	
Account—State.....	\$1,503,000
Prior Biennia (Expenditures).....	\$2,247,000
Future Biennia (Projected Costs).....	\$0
TOTAL.....	\$3,750,000

NEW SECTION. Sec. 682. FOR CENTRAL WASHINGTON UNIVERSITY

Randall/Michaelsen Life Safety (02-1-003)

Reappropriation:

Education Construction Account—State.....	\$3,250,000
Prior Biennia (Expenditures).....	\$550,000
Future Biennia (Projected Costs).....	\$0
TOTAL.....	\$3,800,000

NEW SECTION. Sec. 683. FOR CENTRAL WASHINGTON UNIVERSITY

Steam/Electric/Chilled Water (98-1-120)

Reappropriation:

Education Construction Account—State.....	\$400,000
Prior Biennia (Expenditures).....	\$1,600,000
Future Biennia (Projected Costs).....	\$0
TOTAL.....	\$2,000,000

NEW SECTION. Sec. 684. FOR CENTRAL WASHINGTON UNIVERSITY

Minor Works: Program (04-2-028)

Appropriation:

Central Washington University Capital Projects	
Account—State.....	\$2,000,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$24,347,000
TOTAL.....	\$26,347,000

NEW SECTION. Sec. 685. FOR CENTRAL WASHINGTON UNIVERSITY

Preventive Facility Maintenance and Building System Repairs (04-1-950)

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

(1) Pursuant to definitions and provisions in section 925 of this act, the appropriation is provided solely to maintain facilities housing educational and general programs and to maintain its major building systems. Building maintenance, mechanical adjustments, repairs, and minor works for the facility or its major building systems must extend the remaining useful life of the facility or keep it safe and functioning normally.

(2) With this appropriation and that provided in section 686 of this act, the legislature intends to improve the average condition of state facilities as compared to the baseline conditions documented in report 03-1 of the joint legislative audit and review committee. Preventive facility maintenance project funds shall be allocated at local discretion to achieve the above stated performance goal, with particular attention given to buildings currently rated in superior to adequate condition so as to maximize useful life given both the passage of time and intensity with which the space is used.

(3) Section 915 of this act does not apply to this appropriation.

(4) The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Appropriation:

Education Construction Account—State	\$1,886,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,886,000

NEW SECTION. Sec. 686. FOR CENTRAL WASHINGTON UNIVERSITY

Facility Preservation Backlog Reduction (04-1-951)

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

(1) Pursuant to definitions and provisions in section 925 of this act, the appropriation is provided solely to accomplish preservation work that improves existing state facilities in the worst relative condition for housed programs and current building occupants.

(2) With this appropriation and that provided in section 685 of this act, the legislature intends to improve the average condition of state facilities as compared to the baseline conditions documented in report 03-1 of the joint legislative audit and review committee. Preservation backlog reduction project funds shall be prioritized at local discretion to achieve the above stated goal, with particular attention given to buildings currently rated in adequate to marginal condition.

(3) This section is subject to the same allotment procedures as a minor works category except for subsections (4) and (5) of this section which shall follow allotment procedures for a major project.

(4) Predesign studies may be undertaken to consider replacement alternatives and strategies to improve conditions for current building occupants. An allotment for predesign is subject to the filing, review, and approval of a project request report by the office of financial management.

(5) Up to \$212,500 of the appropriation may be spent for any minor capital project in a facility housing educational and general programs of the institution.

(6) Section 915 of this act does not apply to this appropriation.

Appropriation:

State Building Construction Account—State	\$4,250,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$18,500,000
TOTAL	\$22,750,000

NEW SECTION. Sec. 687. FOR CENTRAL WASHINGTON UNIVERSITY

Combined Utility Upgrade (04-1-952)

Appropriation:

State Building Construction Account—State	\$5,000,000
Central Washington University Capital Projects Account—	
State	\$400,000
Subtotal Appropriation	\$5,400,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$36,688,000
TOTAL	\$42,088,000

NEW SECTION. Sec. 688. FOR CENTRAL WASHINGTON UNIVERSITY

CWU/Moses Lake Higher Education Center (04-2-031)

Appropriation:

Central Washington University Capital Projects Account—	
State	\$600,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$600,000

NEW SECTION. Sec. 689. FOR CENTRAL WASHINGTON UNIVERSITY

Infrastructure Savings (04-1-953)

The appropriation in this section is subject to the following conditions and limitations: Projects that are completed in accordance with section 915 of this act may have their remaining funds transferred to this appropriation for other preservation projects approved by the office of financial management.

Appropriation:

State Building Construction Account—State	\$1
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1

NEW SECTION. Sec. 690. FOR THE EVERGREEN STATE COLLEGE

Life Safety/Code Compliance Reappropriation (02-1-013)

Reappropriation:

The Evergreen State College Capital Projects	
Account—State.	\$300,000
Prior Biennia (Expenditures)	\$2,200,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,500,000

NEW SECTION. Sec. 691. FOR THE EVERGREEN STATE COLLEGE

Minor Works Preservation Reappropriation (02-1-014)

Reappropriation:

The Evergreen State College Capital Projects	
Account—State.	\$300,000
Prior Biennia (Expenditures)	\$1,900,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,200,000

NEW SECTION. Sec. 692. FOR THE EVERGREEN STATE COLLEGE

Seminar Building Phase II - Construction (02-2-004)

The appropriations in this section are subject to the following conditions and limitations: The appropriation shall not be used for vehicles, laptop computers, small printers, disposable items, or other items with a useful life of less than one year.

Reappropriation:

State Building Construction Account—State	\$16,500,000
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Appropriation:

The Evergreen State College Capital Projects	
Account—State.	\$2,500,000
Prior Biennia (Expenditures)	\$24,250,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$43,250,000

NEW SECTION. Sec. 693. FOR THE EVERGREEN STATE COLLEGE

Daniel J. Evans Building - Modernization (04-2-006)

Appropriation:

Gardner-Evans Higher Education Construction	
Account—State.	\$21,500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$22,250,000
TOTAL	\$43,750,000

NEW SECTION. Sec. 694. FOR THE EVERGREEN STATE COLLEGE

Infrastructure Preservation (04-1-001)

Appropriation:

State Building Construction Account—State	\$1,550,000
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Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$1,000,000
TOTAL	\$2,550,000

NEW SECTION. Sec. 695. FOR THE EVERGREEN STATE COLLEGE

Lab II 3rd Floor - Chemistry Labs Remodel (04-2-007)

Appropriation:

The Evergreen State College Capital Projects	
Account—State	\$3,000,000

Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,000,000

NEW SECTION. Sec. 696. FOR THE EVERGREEN STATE COLLEGE

Minor Works - Health, Safety, and Code (04-1-004)

Appropriation:

State Building Construction Account—State	\$500,000
The Evergreen State College Capital Projects	
Account—State	\$2,000,000
Subtotal Appropriation	\$2,500,000

Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$11,400,000
TOTAL	\$13,900,000

NEW SECTION. Sec. 697. FOR THE EVERGREEN STATE COLLEGE

Preventive Facility Maintenance and Building System Repairs (04-1-950)

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

(1) Pursuant to definitions and provisions in section 925 of this act, the appropriation is provided solely to maintain facilities housing educational and general programs and to maintain its major building systems. Building maintenance, mechanical adjustments, repairs, and minor works for the facility or its major building systems must extend the remaining useful life of the facility or keep it safe and functioning normally.

(2) With this appropriation and that provided in section 698 of this act, the legislature intends to improve the average condition of state facilities as compared to the baseline conditions documented in report 03-1 of the joint legislative audit and review committee. Preventive facility maintenance project funds shall be allocated at local discretion to achieve the above stated performance goal, with particular attention given to buildings currently rated in superior to adequate condition so as to maximize useful life given both the passage of time and intensity with which the space is used.

(3) Section 915 of this act does not apply to this appropriation.

(4) The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Appropriation:

The Evergreen State College Capital Projects	
Account—State.....	\$150,000
Education Construction Account—State.....	\$584,000
Subtotal Appropriation.....	\$734,000
 Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL.....	\$734,000

NEW SECTION. Sec. 698. FOR THE EVERGREEN STATE COLLEGE

Facility Preservation Backlog Reduction (04-1-951)

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

(1) Pursuant to definitions and provisions in section 925 of this act, the appropriation is provided solely to accomplish preservation work that improves existing state facilities in the worst relative condition for housed programs and current building occupants.

(2) With this appropriation and that provided in section 697 of this act, the legislature intends to improve the average condition of state facilities as compared to the baseline conditions documented in report 03-1 of the joint legislative audit and review committee. Preservation backlog reduction project funds shall be prioritized at local discretion to achieve the above stated goal, with particular attention given to buildings currently rated in adequate to marginal condition.

(3) This section is subject to the same allotment procedures as a minor works category except for subsections (4) and (5) of this section which shall follow allotment procedures for a major project.

(4) Predesign studies may be undertaken to consider replacement alternatives and strategies to improve conditions for current building occupants. An allotment for predesign is subject to the filing, review, and approval of a project request report by the office of financial management.

(5) Up to \$212,500 of the appropriation may be spent for any minor capital project in a facility housing educational and general programs of the institution.

(6) Section 915 of this act does not apply to this appropriation.

Appropriation:

State Building Construction Account—State	\$4,250,000
 Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$24,900,000
TOTAL.....	\$29,150,000

NEW SECTION. Sec. 699. FOR THE EVERGREEN STATE COLLEGE

Minor Works Program (04-2-003)

Appropriation:

The Evergreen State College Capital Projects	
Account—State.....	\$850,000

Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$7,700,000
TOTAL	\$8,550,000

NEW SECTION. Sec. 700. FOR THE EVERGREEN STATE COLLEGE

Infrastructure Savings (04-1-952)

The appropriation in this section is subject to the following conditions and limitations: Projects that are completed in accordance with section 915 of this act may have their remaining funds transferred to this appropriation for other preservation projects approved by the office of financial management.

Appropriation:

State Building Construction Account—State	\$1
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1

NEW SECTION. Sec. 701. FOR WESTERN WASHINGTON UNIVERSITY

Campus Infrastructure Development (98-2-024)

Reappropriation:

State Building Construction Account—State	\$700,000
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Appropriation:

State Building Construction Account—State	\$2,160,000
Prior Biennia (Expenditures)	\$13,419,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$16,279,000

NEW SECTION. Sec. 702. FOR WESTERN WASHINGTON UNIVERSITY

Communications Facility (98-2-053)

The appropriations in this section are subject to the following conditions and limitations: The appropriations in this section shall not be used for vehicles, laptop computers, small printers, disposable items, or other items with a useful life of less than one year.

Reappropriation:

State Building Construction Account—State	\$22,500,000
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Appropriation:

Western Washington University Capital Projects Account— State	\$3,920,000
Prior Biennia (Expenditures)	\$13,973,400
Future Biennia (Projected Costs)	\$0
TOTAL	\$40,393,400

NEW SECTION. Sec. 703. FOR WESTERN WASHINGTON UNIVERSITY

Minor Works - Infrastructure Preservation (02-1-070)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$1,750,000
Prior Biennia (Expenditures)	\$1,250,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,000,000

NEW SECTION. Sec. 704. FOR WESTERN WASHINGTON UNIVERSITY

Minor Works - Preservation - Safety (02-1-071)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$400,000
Prior Biennia (Expenditures)	\$2,600,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,000,000

NEW SECTION. Sec. 705. FOR WESTERN WASHINGTON UNIVERSITY

Academic Instructional Center (02-2-026)

Appropriation:

Gardner-Evans Higher Education Construction Account—State	\$5,618,000
Prior Biennia (Expenditures)	\$115,000
Future Biennia (Projected Costs)	\$51,438,000
TOTAL	\$57,171,000

NEW SECTION. Sec. 706. FOR WESTERN WASHINGTON UNIVERSITY

Minor Works - Program (02-2-072)

Reappropriation:

Western Washington University Capital Projects Account—State	\$1,800,000
Prior Biennia (Expenditures)	\$5,031,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$6,831,000

NEW SECTION. Sec. 707. FOR WESTERN WASHINGTON UNIVERSITY

Job Creation and Infrastructure Projects (03-1-001)

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

(1) The reappropriation in this section is subject to the conditions and limitations in section 905, chapter 10, Laws of 2003.

(2) The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$1,500,000
Prior Biennia (Expenditures)	\$3,000,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,500,000

NEW SECTION. Sec. 708. FOR WESTERN WASHINGTON UNIVERSITY

Preventive Facility Maintenance and Building System Repairs (04-1-951)

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

(1) Pursuant to definitions and provisions in section 925 of this act, the appropriation is provided solely to maintain facilities housing educational and general programs and to maintain its major building systems. Building maintenance, mechanical adjustments, repairs, and minor works for the facility or its major building systems must extend the remaining useful life of the facility or keep it safe and functioning normally.

(2) With this appropriation and that provided in section 709 of this act, the legislature intends to improve the average condition of state facilities as compared to the baseline conditions documented in report 03-1 of the joint legislative audit and review committee. Preventive facility maintenance project funds shall be allocated at local discretion to achieve the above stated performance goal, with particular attention given to buildings currently rated in superior to adequate condition so as to maximize useful life given both the passage of time and intensity with which the space is used.

(3) Section 915 of this act does not apply to this appropriation.

(4) The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Appropriation:

Education Construction Account—State	\$2,814,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,814,000

NEW SECTION. Sec. 709. FOR WESTERN WASHINGTON UNIVERSITY

Facility Preservation Backlog Reduction (04-1-952)

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

(1) Pursuant to definitions and provisions in section 925 of this act, the appropriation is provided solely to accomplish preservation work that improves existing state facilities in the worst relative condition for housed programs and current building occupants.

(2) With this appropriation and that provided in section 708 of this act, the legislature intends to improve the average condition of state facilities as compared to the baseline conditions documented in report 03-1 of the joint legislative audit and review committee. Preservation backlog reduction project funds shall be prioritized at local discretion to achieve the above stated goal, with particular attention given to buildings currently rated in adequate to marginal condition.

(3) This section is subject to the same allotment procedures as a minor works category except for subsections (4) and (5) of this section which shall follow allotment procedures for a major project.

(4) Predesign studies may be undertaken to consider replacement alternatives and strategies to improve conditions for current building occupants. An allotment for predesign is subject to the filing, review, and approval of a project request report by the office of financial management.

(5) Up to \$212,500 of the appropriation may be spent for any minor capital project in a facility housing educational and general programs of the institution.

(6) Section 915 of this act does not apply to this appropriation.

Appropriation:

State Building Construction Account—State	\$4,250,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$24,900,000
TOTAL	\$29,150,000

NEW SECTION. Sec. 710. FOR WESTERN WASHINGTON UNIVERSITY

Minor Works - Health, Safety, and Code (04-1-074)

Appropriation:

State Building Construction Account—State	\$1,000,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$4,000,000
TOTAL	\$5,000,000

NEW SECTION. Sec. 711. FOR WESTERN WASHINGTON UNIVERSITY

Minor Works - Infrastructure Preservation (04-1-075)

Appropriation:

State Building Construction Account—State	\$1,550,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$6,200,000
TOTAL	\$7,750,000

NEW SECTION. Sec. 712. FOR WESTERN WASHINGTON UNIVERSITY

Campus Roadway Development (04-2-073)

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

(1) The purpose of the appropriation is to complete a predesign of potential south campus roadway options and general circulation issues that avoids significant impacts on adjacent neighborhoods and conforms to the city of Bellingham traffic plans.

(2) The predesign shall also investigate options to achieve higher rates of alternative modes of transportation among faculty, staff, and students, minimize surface parking, and make improvements for traffic circulation, including public transit. Safe movement of pedestrians and bicyclists shall be a priority.

(3) Allotment for predesign is contingent upon the completion of a communication and public involvement plan for this project that is consistent with the significant projects section of the Western Washington University institutional master plan and adjacent neighborhood plans adopted by the city of Bellingham, the city of Bellingham Western Washington University neighborhood plan, and the neighborhood meeting requirements contained in Bellingham municipal code 20.40.060. The communication and public involvement plan shall seek to maximize public input through coordination of the planning effort with established neighborhood advisory groups and boards recognized by the city of Bellingham.

Appropriation:

State Building Construction Account—State	\$249,000
Western Washington University Capital Projects Account—State	\$80,000
Subtotal Appropriation	\$329,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$329,000

NEW SECTION. Sec. 713. FOR WESTERN WASHINGTON

UNIVERSITY

Minor Works - Program (04-2-077)

Appropriation:

State Building Construction Account—State	\$500,000
Western Washington University Capital Projects Account—State	\$50,000
Subtotal Appropriation	\$550,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$17,925,000
TOTAL	\$18,475,000

NEW SECTION. Sec. 714. FOR WESTERN WASHINGTON

UNIVERSITY

Shannon Point Marine - Undergraduate Center (04-2-059)

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

(1) The university has independently completed a predesign for this facility. Allotment for construction is contingent upon filing a copy of the predesign with an addendum that discloses federal and grant funding available for construction, equipment, and operating costs for the facility upon occupancy.

(2) Any further appropriations for equipment or furnishings shall be met with local funds.

Appropriation:

State Building Construction Account—State	\$998,329
Western Washington University Capital Projects Account—	
State	\$4,000,000
Subtotal Appropriation	\$4,998,329
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,998,329

NEW SECTION. Sec. 715. FOR WESTERN WASHINGTON UNIVERSITY

Planetarium Improvement (04-2-950)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for, and shall be expended as matching funds for the replacement of, the Western Washington University planetarium projector. Western Washington University shall expend at least an equal amount from institutional funds or donated funds received for the same purpose. If an appropriate replacement projector can be obtained for less than \$250,000, the university may reserve any excess funds for future repair, replacement, or operation of the planetarium.

Appropriation:

State Building Construction Account—State	\$125,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$125,000

NEW SECTION. Sec. 716. FOR WESTERN WASHINGTON UNIVERSITY

Miller Hall Renovation (04-1-953)

Appropriation:

State Building Construction Account—State	\$250,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$34,750,000
TOTAL	\$35,000,000

NEW SECTION. Sec. 717. FOR WESTERN WASHINGTON UNIVERSITY

Infrastructure Savings (04-1-999)

Projects that are completed in accordance with section 915 of this act may have their remaining funds transferred to this appropriation for other preservation projects approved by the office of financial management.

Appropriation:

State Building Construction Account—State	\$1
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Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1

NEW SECTION. Sec. 718. FOR THE STATE HISTORICAL SOCIETY

Tacoma: State History Museum Preservation (02-1-002)

Reappropriation:

State Building Construction Account—State	\$270,000
Prior Biennia (Expenditures)	\$103,016
Future Biennia (Projected Costs)	\$0
TOTAL	\$373,016

NEW SECTION. Sec. 719. FOR THE WASHINGTON STATE HISTORICAL SOCIETY

Lewis and Clark Trail Interpretive Infrastructure Grant Program (02-4-001)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation in this section is provided for development of station camp 1805 as a national historic park in conjunction with the projected relocation of highway 101 in Pacific county.

Reappropriation:

State Building Construction Account—State	\$1,000,000
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Appropriation:

State Building Construction Account—State	\$1,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,000,000

NEW SECTION. Sec. 720. FOR THE WASHINGTON STATE HISTORICAL SOCIETY

Lewis and Clark Station Camp Park Project (02-S-001)

Reappropriation:

State Building Construction Account—State	\$2,000,000
Prior Biennia (Expenditures)	\$552,226
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,552,226

NEW SECTION. Sec. 721. FOR THE WASHINGTON STATE HISTORICAL SOCIETY

Olympia-State Capital Museum Preservation Projects (02-1-001)

Reappropriation:

State Building Construction Account—State	\$56,000
Prior Biennia (Expenditures)	\$649,397
Future Biennia (Projected Costs)	\$0
TOTAL	\$705,397

NEW SECTION. Sec. 722. FOR THE WASHINGTON STATE HISTORICAL SOCIETY

Tacoma - Stadium Way Research Center Preservation Projects (02-1-004)

Reappropriation:

State Building Construction Account—State	\$68,830
Prior Biennia (Expenditures)	\$299,847
Future Biennia (Projected Costs)	\$0
TOTAL	\$368,677

NEW SECTION. Sec. 723. FOR THE WASHINGTON STATE HISTORICAL SOCIETY

Washington Heritage Project (02-4-004)

The reappropriation in this section shall support the projects as listed in section 734, chapter 8, Laws of 2001 2nd sp. sess.

Reappropriation:

State Building Construction Account—State	\$1,500,000
Prior Biennia (Expenditures)	\$14,194,136
Future Biennia (Projected Costs)	\$0
TOTAL	\$15,694,136

NEW SECTION. Sec. 724. FOR THE WASHINGTON STATE HISTORICAL SOCIETY

Stadium Way Research Center - Code Violation Correction (04-1-003)

Appropriation:

State Building Construction Account—State	\$461,200
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$461,200

NEW SECTION. Sec. 725. FOR THE WASHINGTON STATE HISTORICAL SOCIETY

State History Museum Preservation (04-1-850)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is for paver replacement.

Appropriation:

State Building Construction Account—State	\$60,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$60,000

NEW SECTION. Sec. 726. FOR THE WASHINGTON STATE HISTORICAL SOCIETY

Washington Heritage Project (04-4-004)

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

- (1) The appropriation is subject to the provisions of RCW 27.34.330.

(2) The appropriation is provided for the following list of projects:

Project	Amount Recommended
American museum of radio	\$151,799
Bigelow House preservation association	\$33,900
City of Port Angeles	\$112,200
City of Roslyn	\$181,816
City of Sprague	\$98,000
Duwamish tribal service, inc.	\$350,000
Enumclaw plateau historical society	\$54,054
Fort Nisqually living history museum	\$350,000
Gallery one	\$115,500
Georgetown community council	\$50,000
Gig Harbor - peninsula historical society	\$140,000
Historic Seattle PDA	\$350,000
Ilwaco heritage foundation	\$179,400
Jefferson county public works	\$350,000
Lopez Island historical society	\$60,000
Museum of flight	\$350,000
Museum of history and industry	\$350,000
Northwest maritime center	\$350,000
Olympia Waldorf school	\$45,000
Spokane parks and recreation	\$136,000
Spokane symphony	\$56,925
Suquamish museum and tribal cultural center	\$7,000
Vashon parks	\$12,906
World kite museum and hall of fame	\$115,500
Subtotal	\$4,000,000
Alternates	
Vashon parks	\$24,818
Clymer museum	\$113,598
San Juan historical museum	\$8,800
Jefferson county historical society	\$115,500
City of Lynwood	\$37,835
City of Mt. Vernon	\$66,664
White river valley museum	\$115,500
Town of La Conner	\$2,376

Subtotal alternates	\$485,091
TOTAL	\$4,485,091

Appropriation:

State Building Construction Account—State	\$4,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,000,000

NEW SECTION. Sec. 727. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Spokane Community College - Allied Health Building (98-2-661)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$175,089
Prior Biennia (Expenditures)	\$10,861,686
Future Biennia (Projected Costs)	\$0
TOTAL	\$11,036,775

NEW SECTION. Sec. 728. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Clover Park: Transportation Trade - Construction (96-2-662)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$3,380,368
Prior Biennia (Expenditures)	\$14,665,032
Future Biennia (Projected Costs)	\$0
TOTAL	\$18,045,400

NEW SECTION. Sec. 729. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Olympic College Poulsbo Center: Construction (96-2-654)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$6,450,000
Prior Biennia (Expenditures)	\$6,596,675
Future Biennia (Projected Costs)	\$0
TOTAL	\$13,046,675

NEW SECTION. Sec. 730. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Bellingham Technical College: Health/Business Building (98-2-672)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$3,737,347
Prior Biennia (Expenditures)	\$5,199,252
Future Biennia (Projected Costs)	\$0
TOTAL	\$8,936,599

NEW SECTION. Sec. 731. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Lake Washington Technical College: Phase 3 - New Facility (98-2-673)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$9,627,984
Prior Biennia (Expenditures)	\$7,377,016
Future Biennia (Projected Costs)	\$0
TOTAL	\$17,005,000

NEW SECTION. Sec. 732. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Renton Technical College: Technology Resource Center (98-2-674)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$3,379,770
Prior Biennia (Expenditures)	\$8,391,230
Future Biennia (Projected Costs)	\$0
TOTAL	\$11,771,000

NEW SECTION. Sec. 733. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Skagit Valley Community College: Whidbey Higher Education Center (98-2-675)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$641,516
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Prior Biennia (Expenditures)	\$9,278,097
Future Biennia (Projected Costs)	\$0
TOTAL	\$9,919,613

NEW SECTION. Sec. 734. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Centralia College: Instructional Building Replacement (99-2-001)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$172,934
Prior Biennia (Expenditures)	\$14,227,066
Future Biennia (Projected Costs)	\$0
TOTAL	\$14,400,000

NEW SECTION. Sec. 735. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Clark College: Clark Center at Washington State University Vancouver (00-2-680)

The appropriations in this section are subject to the following conditions and limitations: No money from the appropriations in this section may be expended that would be inconsistent with the recommendations of the higher education coordinating board and the project design, scope, and schedule approved by the office of financial management.

Reappropriation:

State Building Construction Account—State	\$1,096,000
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Appropriation:

Gardner-Evans Higher Education Construction Account—State	\$18,009,800
Prior Biennia (Expenditures)	\$668,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$19,773,800

NEW SECTION. Sec. 736. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Facilities Repairs "A" (00-1-050)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$1,784,463
Community and Technical College Capital Projects Account—State	\$85,847
Subtotal Reappropriation	\$1,870,310
Prior Biennia (Expenditures)	\$25,529,690

Future Biennia (Projected Costs)	\$0
TOTAL	\$27,400,000

NEW SECTION. Sec. 737. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Green River Community College: Drama/Music Class - Renovation (00-2-322)

Reappropriation:

State Building Construction Account—State	\$398,031
Prior Biennia (Expenditures)	\$3,031,969
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,430,000

NEW SECTION. Sec. 738. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Highline Community College: Higher Ed Center/Childcare (00-2-678)

Reappropriation:

State Building Construction Account—State	\$985,949
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Appropriation:

Gardner-Evans Higher Education Construction	
Account—State	\$14,654,000
Community and Technical College Capital Projects	
Account—State	\$3,898,000
Subtotal Appropriation	\$18,552,000
Prior Biennia (Expenditures)	\$1,359,051
Future Biennia (Projected Costs)	\$0
TOTAL	\$20,897,000

NEW SECTION. Sec. 739. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Minor Works - Program (Minor Improvements) (00-1-130)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$1,587,700
Community and Technical College Capital Projects	
Account—State	\$308,506
Subtotal Reappropriation	\$1,896,206
Prior Biennia (Expenditures)	\$14,953,794
Future Biennia (Projected Costs)	\$0
TOTAL	\$16,850,000

NEW SECTION. Sec. 740. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Olympic College: Physical Plant Building Replacement (00-2-002)

Reappropriation:

Education Construction Account—State	\$416,607
Prior Biennia (Expenditures)	\$5,698,993
Future Biennia (Projected Costs)	\$0
TOTAL	\$6,115,600

NEW SECTION. Sec. 741. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Pierce College Puyallup: Phase III Expansion (00-2-676)

Reappropriation:

State Building Construction Account—State	\$723,985
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Appropriation:

Gardner-Evans Higher Education Construction Account—State	\$23,374,774
Prior Biennia (Expenditures)	\$1,236,215
Future Biennia (Projected Costs)	\$0
TOTAL	\$25,334,974

NEW SECTION. Sec. 742. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Shoreline Community College: Library/Technical Center (00-2-319)

Reappropriation:

State Building Construction Account—State	\$215,408
Prior Biennia (Expenditures)	\$7,034,592
Future Biennia (Projected Costs)	\$0
TOTAL	\$7,250,000

NEW SECTION. Sec. 743. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

South Puget Sound Community College: Humanities/General Education Complex (00-2-679)

Reappropriation:

Education Construction Account—State	\$1,092,690
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Appropriation:

State Building Construction Account—State	\$17,350,248
Prior Biennia (Expenditures)	\$812,310
Future Biennia (Projected Costs)	\$0
TOTAL	\$19,255,248

NEW SECTION. Sec. 744. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Whatcom Community College: Classroom/Lab Building (00-2-677)

Reappropriation:

State Building Construction Account—State	\$372,634
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Appropriation:

State Building Construction Account—State	\$10,932,400
Prior Biennia (Expenditures)	\$599,266
Future Biennia (Projected Costs)	\$0

TOTAL \$11,904,300

NEW SECTION. Sec. 745. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Yakima Valley Community College: Higher Education Center (00-2-954)

Reappropriation:

State Building Construction Account—State	\$4,214,248
Prior Biennia (Expenditures)	\$16,285,752
Future Biennia (Projected Costs)	\$0
TOTAL	\$20,500,000

NEW SECTION. Sec. 746. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Green River Community College: Science Building (01-2-688)

Appropriation:

Community and Technical College Capital Projects Account—State	\$2,396,409
Prior Biennia (Expenditures)	\$100,000
Future Biennia (Projected Costs)	\$27,407,191
TOTAL	\$29,903,600

NEW SECTION. Sec. 747. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Tacoma Community College: Science Building (01-2-687)

Appropriation:

State Building Construction Account—State	\$2,379,000
Prior Biennia (Expenditures)	\$100,000
Future Biennia (Projected Costs)	\$28,929,265
TOTAL	\$31,408,265

NEW SECTION. Sec. 748. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Technology Institute Partner College Computer Labs (01-2-689)

The reappropriation in this section is provided to complete construction and equip three computer science and language labs, an approximate size being 1,200 square feet, one at each of the following college districts: Highline, Olympic, and South Puget Sound, as provided in section 824, chapter 8, Laws of 2001 2nd sp. sess.

Reappropriation:

State Building Construction Account—State	\$345,722
Prior Biennia (Expenditures)	\$1,154,278
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,500,000

NEW SECTION. Sec. 749. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Bates Technical College: LRC/Vocational (02-2-684)

Appropriation:

State Building Construction Account—State	\$1,796,206
Prior Biennia (Expenditures)	\$94,346
Future Biennia (Projected Costs)	\$15,168,902
TOTAL	\$17,059,454

NEW SECTION. Sec. 750. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Bellevue Community College: "A" Building Renovation (02-1-320)

Reappropriation:

State Building Construction Account—State	\$5,025,531
Prior Biennia (Expenditures)	\$540,569
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,566,100

NEW SECTION. Sec. 751. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Bellingham Technical College: Replacement (02-1-239)

Reappropriation:

State Building Construction Account—State	\$4,307,533
Prior Biennia (Expenditures)	\$50,367
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,357,900

NEW SECTION. Sec. 752. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Big Bend Community College: Library Replacement (02-1-232)

Reappropriation:

Education Construction Account—State	\$7,128,718
Prior Biennia (Expenditures)	\$368,282
Future Biennia (Projected Costs)	\$0
TOTAL	\$7,497,000

NEW SECTION. Sec. 753. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Centralia Community College Science Building (04-2-850)

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

(1) The purpose of this appropriation is to conduct a predesign study for a science building that will address a range of alternatives, meet the needs of project enrollment in the sciences, and be sited in a location that maximizes future development of the campus.

(2) The predesign shall be consistent with the college's adopted strategic and facility master plans and additionally address projected enrollment demands, operating budget impacts, and options for reduction of parking needs.

Appropriation:

State Building Construction Account—State	\$150,000
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Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$150,000

Sec. 754. 2001 2nd sp.s. c 8 s 817 (uncodified) is amended to read as follows:

FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Clover Park - Building 18 Machine Trades: New Facility (02-1-343)

The appropriation in this section is subject to the review and allotment procedures under sections 902 and 903 of this act.

Appropriation:

State Building Construction Account—State	(\$4,791,800)
	<u>\$208,492</u>

Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	(\$4,791,800)
	<u>\$208,492</u>

NEW SECTION. Sec. 755. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Clover Park Technical College: Building 25 Machine Trades (04-1-953)

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

(1) The appropriation results from a transfer of remaining funding from Clover Park Technical College: Building 18 machine trades (02-1-343).

(2) Should any shortfall occur as a result of this scope change, further appropriations as required to complete the project shall be met by the college with local funds. Completion of the project is meant to include building and site development as well as equipment and furnishings. This does not preclude the use of one-time funds provided in section 788 of this act.

Appropriation:

State Building Construction Account—State	\$4,583,308
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,583,308

NEW SECTION. Sec. 756. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Columbia Basin College: Building "A" Renovation (02-1-333)

Reappropriation:

State Building Construction Account—State	\$2,387,456
Prior Biennia (Expenditures)	\$4,046,644
Future Biennia (Projected Costs)	\$0
TOTAL	\$6,434,100

NEW SECTION. Sec. 757. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Edmonds Community College: Instructional Lab Building (02-2-685)

Appropriation:

State Building Construction Account—State	\$2,939,060
Prior Biennia (Expenditures)	\$58,000
Future Biennia (Projected Costs)	\$14,491,466
TOTAL	\$17,488,526

NEW SECTION. Sec. 758. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Facility Repairs "A" (02-I-050)

Reappropriation:

Education Construction Account—State	\$12,716,919
Prior Biennia (Expenditures)	\$8,943,409
Future Biennia (Projected Costs)	\$0
TOTAL	\$21,660,328

NEW SECTION. Sec. 759. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Grays Harbor College: Library Renovation (02-1-311)

Reappropriation:

State Building Construction Account—State	\$2,142,150
Prior Biennia (Expenditures)	\$2,437,350
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,579,500

NEW SECTION. Sec. 760. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Green River Community College: International Program Replacement (02-1-222)

Reappropriation:

Community and Technical College Capital Projects Account—State	\$501,790
Prior Biennia (Expenditures)	\$85,280
Future Biennia (Projected Costs)	\$0
TOTAL	\$587,070

NEW SECTION. Sec. 761. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Lake Washington Technical College: Replacement (02-1-240)

Reappropriation:

State Building Construction Account—State	\$6,536,746
Prior Biennia (Expenditures)	\$378,554
Future Biennia (Projected Costs)	\$0
TOTAL	\$6,915,300

NEW SECTION. Sec. 762. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Lower Columbia College: Physical Science Portables Replacement (02-1-226)

Reappropriation:

State Building Construction Account—State	\$1,445,865
Prior Biennia (Expenditures)	\$513,935
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,959,800

NEW SECTION. Sec. 763. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Minor Works - Preservation (Emergency Funds) (02-1-00i)

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

(1) The reappropriation shall only be used for unanticipated building or infrastructure repairs necessary for the protection of capital assets and protection of health or safety. The legislature does not intend for this appropriation to be used for routine maintenance.

(2) The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$5,912,186
Prior Biennia (Expenditures)	\$6,087,814
Future Biennia (Projected Costs)	\$0
TOTAL	\$12,000,000

NEW SECTION. Sec. 764. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Minor Works - Program (02-1-130)

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

(1) The reappropriation in this section is subject to the conditions and limitations in section 795(1), chapter 8, Laws of 2001 2nd sp. sess.

(2) The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$7,744,801
Education Construction Account—State	\$3,365,870
Subtotal Reappropriation	\$11,110,671
Prior Biennia (Expenditures)	\$10,156,829
Future Biennia (Projected Costs)	\$0
TOTAL	\$21,267,500

NEW SECTION. Sec. 765. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Peninsula College: Buildings D and E Renovation (02-1-310)

Reappropriation:

State Building Construction Account—State	\$2,656,850
Prior Biennia (Expenditures)	\$12,950
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,669,800

NEW SECTION. Sec. 766. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Pierce College Fort Steilacoom: Portables Replacement (02-1-223)

Reappropriation:

State Building Construction Account—State	\$2,134,848
Prior Biennia (Expenditures)	\$317,252
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,452,100

NEW SECTION. Sec. 767. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Roof Repairs "A" (02-1-010)

The reappropriation in this section is subject to the following conditions and limitations: The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

Education Construction Account—State	\$4,370,213
Prior Biennia (Expenditures)	\$3,102,864
Future Biennia (Projected Costs)	\$0
TOTAL	\$7,473,077

NEW SECTION. Sec. 768. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Seattle Central Community College: Edison Hall Renovation (02-1-315)

Reappropriation:

State Building Construction Account—State	\$4,705,209
Prior Biennia (Expenditures)	\$1,103,991
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,809,200

NEW SECTION. Sec. 769. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Seattle Central Community College: Portables Replacement (02-1-215)

Reappropriation:

State Building Construction Account—State	\$6,808,687
Prior Biennia (Expenditures)	\$88,713
Future Biennia (Projected Costs)	\$0
TOTAL	\$6,897,400

NEW SECTION. Sec. 770. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Shoreline Community College: Building 800 Renovation (02-1-319)

Reappropriation:

State Building Construction Account—State	\$5,858,057
Prior Biennia (Expenditures)	\$163,043
Future Biennia (Projected Costs)	\$0
TOTAL	\$6,021,100

NEW SECTION. Sec. 771. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Site Repairs "A" (02-1-090)

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

(1) The reappropriation in this section is subject to the following conditions and limitations: \$200,000 of the reappropriation from the state building construction account—state is provided solely to South Seattle Community College for the Seattle Chinese gardens. The appropriation must be matched by \$200,000 in additional contributions toward the project from local government.

(2) The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$89,000
Education Construction Account—State	\$3,852,474
Subtotal Reappropriation	\$3,941,474
Prior Biennia (Expenditures)	\$4,601,758
Future Biennia (Projected Costs)	\$0
TOTAL	\$8,543,232

NEW SECTION. Sec. 772. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Skagit Valley College: Office Space Replacement (02-1-213)

Reappropriation:

Community and Technical College Capital Projects Account—State	\$752,777
Prior Biennia (Expenditures)	\$9,912
Future Biennia (Projected Costs)	\$0
TOTAL	\$762,689

NEW SECTION. Sec. 773. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

South Puget Sound Community College: Family Education/Child Center (02-1-238)

Reappropriation:

State Building Construction Account—State	\$6,718,357
Prior Biennia (Expenditures)	\$413,643
Future Biennia (Projected Costs)	\$0
TOTAL	\$7,132,000

NEW SECTION. Sec. 774. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

South Seattle Community College: Building "A" Replacement (02-1-217)

Reappropriation:

State Building Construction Account—State	\$5,190,236
Prior Biennia (Expenditures)	\$287,164
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,477,400

NEW SECTION. Sec. 775. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Spokane Falls Community College: Fine Arts Building Replacement (02-1-231)

Reappropriation:

Community and Technical College Capital Projects Account—State	\$672,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$672,000

NEW SECTION. Sec. 776. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Spokane Falls Community College: Library Renovation (02-1-331)

Reappropriation:

State Building Construction Account—State	\$5,269,005
Prior Biennia (Expenditures)	\$332,995
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,602,000

NEW SECTION. Sec. 777. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Tacoma Community College: Information Technology Vocational Center (02-2-683)

Reappropriation:

State Building Construction Account—State	\$534,671
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Appropriation:

State Building Construction Account—State	\$14,531,900
Prior Biennia (Expenditures)	\$663,429
Future Biennia (Projected Costs)	\$0
TOTAL	\$15,730,000

NEW SECTION. Sec. 778. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Tacoma Community College: Portable Buildings Replacement (02-1-236)

Reappropriation:

Education Construction Account—State	\$3,437,867
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Prior Biennia (Expenditures)	\$19,133
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,457,000

NEW SECTION. Sec. 779. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Walla Walla Community College: Basic Skills/Computer Lab (02-2-686)

Appropriation:

Gardner-Evans Higher Education Construction Account—State	\$573,000
Prior Biennia (Expenditures)	\$36,300
Future Biennia (Projected Costs)	\$5,431,700
TOTAL	\$6,041,000

NEW SECTION. Sec. 780. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Walla Walla Community College: Parent/Child Center Replacement (02-1-234)

Reappropriation:

Community and Technical College Capital Projects Account—State	\$222,907
Prior Biennia (Expenditures)	\$168,323
Future Biennia (Projected Costs)	\$0
TOTAL	\$391,230

NEW SECTION. Sec. 781. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Wenatchee Valley College: Greenhouse Replacement (02-1-220)

Reappropriation:

Education Construction Account—State	\$441,360
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$441,360

NEW SECTION. Sec. 782. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Job Creation and Infrastructure Projects (03-1-001)

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

- (1) The reappropriation in this section shall support the projects as listed in section 224, chapter 238, Laws of 2002.
- (2) The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Reappropriation:

State Building Construction Account—State	\$865,437
Education Construction Account—State	\$10,209,178
Subtotal Reappropriation	\$11,074,615

Prior Biennia (Expenditures)	\$15,525,560
Future Biennia (Projected Costs)	\$0
TOTAL	\$26,600,175

***NEW SECTION. Sec. 783. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Cascadia Community College/University of Washington Bothell - State Route 522 Access (02-2-999)

The reappropriation in this section is subject to the following conditions and limitations: The legislature intends to appropriate funds for construction of this project in a future transportation budget.

Reappropriation:

<i>State Building Construction Account—State</i>	<i>\$2,390,000</i>
<i>Prior Biennia (Expenditures)</i>	<i>\$110,000</i>
<i>Future Biennia (Projected Costs)</i>	<i>\$0</i>
<i>TOTAL</i>	<i>\$2,500,000</i>

*Sec. 783 was vetoed. See message at end of chapter.

NEW SECTION. Sec. 784. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Peninsula College: Replacement Science and Technology Building (04-1-208)

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

- (1) The purpose of this appropriation is to conduct a predesign study of alternatives for a potential replacement of existing science lab facilities.
- (2) The predesign shall be consistent with the college’s adopted strategic and master plans and additionally address projected enrollment demands, operating budget impacts, reuse or disposition of existing facilities, and options for reduction of parking needs.

Appropriation:

<i>Community and Technical College Capital Projects</i>	
<i>Account—State</i>	<i>\$82,800</i>
<i>Prior Biennia (Expenditures)</i>	<i>\$0</i>
<i>Future Biennia (Projected Costs)</i>	<i>\$10,752,500</i>
<i>TOTAL</i>	<i>\$10,835,300</i>

NEW SECTION. Sec. 785. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Spokane Community College: Science Building Replacement (04-1-212)

Appropriation:

<i>State Building Construction Account—State</i>	<i>\$15,721,600</i>
<i>Prior Biennia (Expenditures)</i>	<i>\$0</i>
<i>Future Biennia (Projected Costs)</i>	<i>\$0</i>
<i>TOTAL</i>	<i>\$15,721,600</i>

NEW SECTION. Sec. 786. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Bellingham Technical College: Welding/Auto Collision Replacement (04-1-213)

Appropriation:

State Building Construction Account—State	\$2,481,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$14,357,000
TOTAL	\$16,838,000

NEW SECTION. Sec. 787. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Lower Columbia College: Instructional/Fine Arts Building Replacement (04-1-214)

Appropriation:

State Building Construction Account—State	\$1,827,799
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$16,645,515
TOTAL	\$18,473,314

NEW SECTION. Sec. 788. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Bates-Clover Park Equipment Improvements (04-2-950)

Appropriation:

Community and Technical College Capital Projects Account—State	\$3,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,000,000

NEW SECTION. Sec. 789. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Bellevue Community College: "D" Building Renovation (04-1-308)

Appropriation:

State Building Construction Account—State	\$11,418,700
Community and Technical College Capital Projects Account—State	\$2,000,000
Subtotal Appropriation	\$13,418,700
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$13,418,700

NEW SECTION. Sec. 790. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Bellevue Community College: Science and Technology (04-2-690)

The appropriation in this section is subject to the following conditions and limitations: The purpose of the appropriation is to conduct a predesign study of

alternatives for a replacement building in compliance with adopted master and strategic plans and which additionally addresses projected enrollment demands, operating budget impacts, options for reduction of parking needs, and cost effective ways to meet new local environmental regulations.

Appropriation:

Community and Technical College Capital Projects	
Account—State.	\$90,000
Prior Biennia (Expenditures).	\$0
Future Biennia (Projected Costs).	\$28,315,700
TOTAL	\$28,405,700

NEW SECTION. Sec. 791. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Cascadia Community College: Center for Arts, Technology, Communications (04-2-693)

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

(1) The purpose of the appropriation is to conduct a predesign study of alternatives for a building to house new programs that integrate arts and languages with technology, media, and business programs.

(2) The predesign shall be consistent with the college's adopted strategic plan and colocated campus master plan and additionally address projected enrollment demands, operating budget impacts, and options for reduction of parking needs.

(3) The college shall coordinate planning efforts with the University of Washington, Bothell and address the timing of construction of the south campus access in the predesign.

(4) Any necessary modifications to the colocated campus master plan should result in an addendum to the campus master plan to be submitted for review by the office of financial management and the legislative fiscal committees.

Appropriation:

Community and Technical College Capital Projects	
Account—State.	\$159,900
Prior Biennia (Expenditures).	\$0
Future Biennia (Projected Costs).	\$35,673,200
TOTAL	\$35,833,100

NEW SECTION. Sec. 792. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Clark College: Renovation - Applied Arts 5 (04-1-303)

Appropriation:

State Building Construction Account—State	\$3,872,413
Prior Biennia (Expenditures).	\$0
Future Biennia (Projected Costs).	\$0
TOTAL	\$3,872,413

NEW SECTION. Sec. 793. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Clark College: Stout Hall (04-1-203)

Appropriation:

State Building Construction Account—State	\$4,049,889
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,049,889

NEW SECTION. Sec. 794. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Clark College: East County Satellite (04-1-689)

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

- (1) The purpose of this appropriation is to conduct a predesign study of alternatives for a potential satellite campus.
- (2) The predesign shall be consistent with the college's adopted strategic and master plans and additionally address projected enrollment demands, operating budget impacts, and options for reduction of parking needs.

Appropriation:

State Building Construction Account—State	\$300,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$29,191,800
TOTAL	\$29,491,800

NEW SECTION. Sec. 795. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Columbia Basin College: Renovation - "T" Building (04-1-307)

Appropriation:

State Building Construction Account—State	\$6,058,500
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$6,058,500

NEW SECTION. Sec. 796. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Edmonds Community College: Renovation - Mountlake Terrace Hall (04-1-311)

Appropriation:

State Building Construction Account—State	\$8,827,030
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$8,827,030

NEW SECTION. Sec. 797. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Everett Community College: Pilchuck/Glacier (04-1-205)

Appropriation:

State Building Construction Account—State	\$1,311,700
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$14,633,300
TOTAL	\$15,945,000

NEW SECTION. Sec. 798. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Everett Community College: Renovation - Monte Cristo Hall (04-1-305)

Appropriation:

State Building Construction Account—State	\$7,352,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$7,352,000

NEW SECTION. Sec. 799. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Preventive Facility Maintenance and Building System Repairs (04-1-950)

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

(1) Pursuant to definitions and provisions in section 925 of this act, the appropriation is provided solely to maintain facilities housing educational and general programs and to maintain its major building systems. Building maintenance, mechanical adjustments, repairs, and minor works for the facility or its major building systems must extend the remaining useful life of the facility or keep it safe and functioning normally.

(2) With this appropriation and that provided in section 800 of this act, the legislature intends to improve the average condition of state facilities as compared to the baseline conditions documented in report 03-1 of the joint legislative audit and review committee. Preventive facility maintenance project funds shall be allocated at the state board's discretion to achieve the above stated performance goal, with particular attention given to buildings currently rated in superior to adequate condition so as to maximize useful life given both the passage of time and intensity with which the space is used.

(3) Section 915 of this act does not apply to this appropriation.

(4) The legislature does not intend to reappropriate amounts not expended by June 30, 2005.

Appropriation:

Education Construction Account—State	\$17,754,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$17,754,000

NEW SECTION. Sec. 800. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Facility Preservation Backlog Reduction (04-1-951)

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

(1) Pursuant to definitions and provisions in section 925 of this act, the appropriation is provided solely to accomplish preservation work that improves existing state facilities in the worst relative condition for housed programs and current building occupants.

(2) With this appropriation and that provided in section 799 of this act, the legislature intends to improve the average condition of state facilities as compared to the baseline conditions documented in report 03-1 of the joint legislative audit and review committee. Preservation backlog reduction project funds shall be prioritized at the state board's discretion to achieve the above stated goal, with particular attention given to buildings currently rated in adequate to marginal condition.

(3) This section is subject to the same allotment procedures as a minor works category except for subsections (4) and (5) of this section which shall follow allotment procedures for a major project.

(4) Predesign studies may be undertaken to consider replacement alternatives and strategies to improve conditions for current building occupants. An allotment for predesign is subject to the filing, review, and approval of a project request report by the office of financial management.

(5) Up to \$27,917,000 of the appropriation may be used for the following design studies and other eligible projects:

- (a) Pierce-Ft. Steilacoom Health Science center;
- (b) Highline childcare center (replaces portables);
- (c) Yakima classroom replacement (Anton/Glenn);
- (d) Olympic Science and Technology replacement;
- (e) South Seattle replacement portables;
- (f) Seattle Central-Broadway Edison (student services);

(6) An allotment for design under subsection (5) of this section is subject to the filing, review, and approval of a project request report and a predesign study by the office of financial management.

(7) Up to \$3,215,000 of the appropriation may be spent for any minor capital project in a facility housing educational and general programs of the institution.

(8) Section 915 of this act does not apply to this appropriation.

Appropriation:

State Building Construction Account—State	\$64,300,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$229,700,000
TOTAL	\$294,000,000

NEW SECTION. Sec. 801. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Grays Harbor College: Replacement - Instructional Building (04-1-204)

Appropriation:

State Building Construction Account—State	\$1,263,300
Prior Biennia (Expenditures)	\$0

Future Biennia (Projected Costs).....	\$16,371,700
TOTAL.....	\$17,635,000

NEW SECTION. Sec. 802. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Everett Community College: Undergraduate Education Center (04-2-692)

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

(1) The purpose of this appropriation is to conduct a predesign study of alternatives for a potential undergraduate education center to meet the projected enrollment demands of academic transfer students.

(2) The predesign shall be consistent with the college’s adopted strategic and master plans and additionally address projected enrollment demands, operating budget impacts, reuse or disposition of existing facilities, and options for reduction of parking needs.

Appropriation:

Community and Technical College Capital Projects	
Account—State.....	\$126,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$29,601,000
TOTAL.....	\$29,727,000

NEW SECTION. Sec. 803. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Green River Community College: Computer Technology Center (04-2-682)

Reappropriation:

State Building Construction Account—State	\$356,193
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Appropriation:

State Building Construction Account—State	\$10,984,800
Prior Biennia (Expenditures).....	\$658,507
Future Biennia (Projected Costs).....	\$0
TOTAL.....	\$11,999,500

NEW SECTION. Sec. 804. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Lake Washington Technical College: Renovation - East/West Buildings (04-1-312)

Appropriation:

State Building Construction Account—State	\$4,420,800
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL.....	\$4,420,800

NEW SECTION. Sec. 805. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Minor Works - Program (Minor Improvements) (04-2-130)

Appropriation:

Community and Technical College Capital Projects	
Account—State	\$14,979,217
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$40,000,000
TOTAL	\$54,979,217

NEW SECTION. Sec. 806. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

North Seattle Community College: Arts and Science Renovation (04-1-309)

Appropriation:

State Building Construction Account—State	\$6,785,700
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$6,785,700

NEW SECTION. Sec. 807. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Olympic College: Science and Technology Building Replacement (04-1-202)

The appropriation in this section is subject to the following conditions and limitations: Additional support for this project is provided by the appropriation in section 800 of this act.

Appropriation:

State Building Construction Account—State	\$10,998,000
Community and Technical College Capital Projects	
Account—State	\$3,000,000
Subtotal Appropriation	\$13,998,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$13,998,000

NEW SECTION. Sec. 808. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Lake Washington Technical College: Redmond Land Acquisition (04-2-403)

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

- (1) The purpose of the appropriation is to purchase property for expansion, storm water retention and parking requirements.
- (2) State funds must be matched with nonstate resources of at least \$500,000.
- (3) Allotment of funds shall be in accordance with RCW 43.88.150.

Appropriation:

Community and Technical College Capital Projects	
Account—State	\$500,000

Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL	\$500,000

NEW SECTION. Sec. 809. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Pierce College Puyallup: Community Arts/Allied Health (04-1-691)

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

(1) The purpose of this appropriation is to conduct a predesign study of alternatives for a potential building to accommodate increased capacity in professional and technical programs.

(2) The predesign shall be consistent with the college’s adopted strategic and master plans and additionally address projected enrollment demands, operating budget impacts, reuse or disposition of existing facilities, and options for reduction of parking needs.

Appropriation:

Community and Technical College Capital Projects

Account—State.....	\$150,000
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Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$24,797,400
TOTAL	\$24,947,400

NEW SECTION. Sec. 810. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Pierce College-Ft. Steilacoom: Science and Technology (04-1-694)

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

(1) The purpose of this appropriation is to conduct a predesign study of alternatives for a potential replacement of existing science lab facilities.

(2) The predesign shall be consistent with the college's adopted strategic and master plans and additionally address projected enrollment demands, operating budget impacts, reuse or disposition of existing facilities, and options for reduction of parking needs.

Appropriation:

Community and Technical College Capital Projects

Account—State.....	\$190,000
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Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$29,060,400
TOTAL	\$29,250,400

NEW SECTION. Sec. 811. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Bellevue Community College: NWCET Expansion (04-2-402)

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

(1) The purpose of the appropriation is to build an additional 4,000 square feet of open lab space to accommodate new and expanding information technology and media programs.

(2) State funds will be matched with nonstate resources of at least \$500,000.

(3) Allotment of funds shall be in accordance with RCW 43.88.150.

Appropriation:

Community and Technical College Capital Projects	
Account—State.	\$500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$500,000

NEW SECTION. Sec. 812. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Pierce College Fort Steilacoom: Childcare Center (04-2-401)

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

(1) The purpose of the appropriation is to construct a 10,000 square foot childcare center as identified in the college's master plan.

(2) State funds must be matched with nonstate resources in the amount of \$2,250,000.

(3) Allotment of funds shall be in accordance with RCW 43.88.150.

Appropriation:

Community and Technical College Capital Projects	
Account—State.	\$500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$500,000

NEW SECTION. Sec. 813. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Peninsula College: Community Resource Center (04-2-406)

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

(1) The purpose of the appropriation is to construct a 4,800 square foot facility housing instructional space for the college as well as other space used in a collaborative manner by the school districts and economic development council as a community resource center.

(2) State funds will be matched with nonstate resources of at least \$500,000.

(3) Allotment of funds shall be in accordance with RCW 43.88.150.

Appropriation:

Community and Technical College Capital Projects	
Account—State.	\$500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$500,000

NEW SECTION. Sec. 814. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Renton Technical College: Portable Replacement (04-1-215)

Appropriation:

State Building Construction Account—State	\$419,300
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$2,630,300
TOTAL	\$3,049,600

NEW SECTION. Sec. 815. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Roof Repairs "A" (04-1-010)

Appropriation:

State Building Construction Account—State	\$7,265,677
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$20,000,000
TOTAL	\$27,265,677

***NEW SECTION. Sec. 816. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Seattle Central: Replacement North Plaza Building (04-1-275)

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

(1) The appropriation is for the design and construction of, and equipment for, an information technology program. The space for the program is created by adding a floor to another structure.

(2) The state board for community and technical colleges shall submit a major project report to the office of financial management with copies to the legislative fiscal committees in accordance with the established procedures for major project reports. In addition, the report will contain a cost tracking form that links expenditures by C-100 category.

(3) Following occupancy of the project, the state board for community and technical colleges, with the assistance of the department of general administration and the community college, shall submit a final budget reconciliation that summarizes all costs for the project, including equipment, regardless of the fund source.

Appropriation:

State Building Construction Account—State	\$4,976,200
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,976,200

*Sec. 816 was partially vetoed. See message at end of chapter.

NEW SECTION. Sec. 817. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Site Repairs "A" (04-1-090)

Appropriation:

State Building Construction Account—State	\$5,305,624
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$20,000,000
TOTAL	\$25,305,624

NEW SECTION. Sec. 818. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Skagit Valley College: Science Building Replacement (04-1-209)

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

(1) The college shall complete a predesign for a science building that will address a range of alternatives, meet the needs of projected enrollment in the sciences, and be sited in a location that maximizes future development of the campus.

(2) The appropriation shall be used to complete predesign, amend master plan documents, and complete infrastructure planning so that the proposed project is consistent with the college's strategic plan and facilities master plan.

Appropriation:

State Building Construction Account—State	\$300,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$300,000

NEW SECTION. Sec. 819. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

South Seattle Community College: Instructional Technology Center (04-2-681)

Reappropriation:

State Building Construction Account—State	\$713,759
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Appropriation:

State Building Construction Account—State	\$17,236,600
Prior Biennia (Expenditures)	\$910,641
Future Biennia (Projected Costs)	\$0
TOTAL	\$18,861,000

NEW SECTION. Sec. 820. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

South Seattle Community College: Renovation - Pastry Vocational Program (04-1-314)

Appropriation:

Community and Technical College Capital Projects Account—State	\$2,613,100
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,613,100

***NEW SECTION. Sec. 821. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Tacoma Community College: Renovation - Building 7 (04-1-313)

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

(1) The appropriation is for the design and construction of, and equipment for, an extensive renovation of an instructional building and its systems.

(2) The state board for community and technical colleges shall submit a major project report to the office of financial management with copies to the legislative fiscal committees in accordance with the established procedures for major project reports. In addition, the report will contain a cost tracking form that links expenditures by C-100 category.

(3) Following occupancy of the project, the state board for community and technical colleges, with the assistance of the department of general administration and the community college, shall submit a final budget reconciliation that summarizes all costs for the project, including equipment, regardless of the fund source.

Appropriation:

State Building Construction Account—State	\$4,988,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,988,000

*Sec. 821 was partially vetoed. See message at end of chapter.

NEW SECTION. Sec. 822. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Tacoma Community College: Replacement - Portable Buildings (04-1-206)

Appropriation:

State Building Construction Account—State	\$2,622,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,622,000

NEW SECTION. Sec. 823. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Walla Walla Community College: Health Science Facility (04-1-211)

Appropriation:

Community and Technical College Capital Projects Account—State	\$7,261,400
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$7,261,400

NEW SECTION. Sec. 824. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

South Puget Sound Community College: Science Complex (04-2-695)

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

(1) The purpose of the appropriation is to conduct a predesign study of alternatives for additional natural science laboratory and classroom space in compliance with adopted master and strategic plans.

(2) The predesign shall additionally address projected enrollment demands, operating budget impacts, options for reduction of parking needs and cost-effective ways to meet local environmental regulations.

Appropriation:

Community and Technical College Capital Projects	
Account—State	\$93,200
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$26,040,326
TOTAL	\$26,133,526

NEW SECTION. Sec. 825. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Yakima Valley Community College: Renovation - Sundquist Annex (04-1-302)

Appropriation:

State Building Construction Account—State	\$3,852,700
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,852,700

NEW SECTION. Sec. 826. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Infrastructure Savings (04-1-952)

The appropriation in this section is subject to the following conditions and limitations: Projects that are completed in accordance with section 915 of this act may have their remaining funds transferred to this appropriation for other preservation projects approved by the office of financial management.

Appropriation:

State Building Construction Account—State	\$1
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1

**PART 6
MISCELLANEOUS**

NEW SECTION. Sec. 901. The estimated debt service costs impacting future general fund expenditures related solely to new capital appropriations within this act are \$18,827,417 during the 2003-2005 fiscal period; \$111,194,423 during the 2005-2007 fiscal period; \$155,435,444 during the 2007-2009 fiscal period; \$155,435,444 during the 2009-2011 fiscal period; and \$155,435,444 during the 2011-2013 period.

NEW SECTION. Sec. 902. Allotments for appropriations in this act shall be provided in accordance with the capital project review requirements adopted by the office of financial management. The office of financial management shall notify the house of representatives capital budget committee and the senate ways and means committee of allotment releases based on review by the office of financial management. No expenditure may be incurred or obligation entered into for appropriations in this act until the office of financial management has given final approval to the allotment of the funds to be expended or encumbered. For allotments under this act, the allotment process includes, in addition to the statement of proposed expenditures for the current biennium, a category or categories for any reserve amounts and amounts expected to be expended in future biennia. Projects that will be employing alternative public works construction procedures under chapter 39.10 RCW are subject to the allotment procedures defined in this section and RCW 43.88.110. Contracts shall not be executed that call for expenditures in excess of the approved allotment, and the total amount shown in such contracts for the cost of future work that has not been appropriated shall not exceed the amount identified for such work in the level of funding approved by the office of financial management at the completion of predesign.

NEW SECTION. Sec. 903. To ensure that major construction projects are carried out in accordance with legislative and executive intent, appropriations in this act in excess of \$5,000,000 shall not be expended or encumbered until the office of financial management has reviewed and approved the agency's predesign and other documents, and approved an allotment for the project that includes specific authorization to enter into a contract to expend or encumber funds. The predesign document shall include but not be limited to program, site, and cost analysis in accordance with the predesign manual adopted by the office of financial management. To improve monitoring of major construction projects, progress reports shall be submitted by the agency administering the project to the office of financial management and to the fiscal committees of the house of representatives and senate. Reports will be submitted on July 1st and December 31st each year in a format to be developed by the office of financial management.

NEW SECTION. Sec. 904. Appropriations in this act for design and construction of facilities on higher education campuses shall be expended only after funds are allotted to institutions of higher education on the basis of: (1) Comparable unit cost standards, as determined by the office of financial management in consultation with the higher education coordinating board; (2) costs consistent with other higher education teaching facilities in the state; and (3) student full-time equivalent enrollment levels as established by the office of financial management in consultation with the higher education coordinating board.

NEW SECTION. Sec. 905. To ensure that minor works appropriations are carried out in accordance with legislative intent, funds appropriated in this act shall not be allotted until project lists are on file at the office of financial management. Minor works appropriations shall not be used for studies unless expressly authorized elsewhere in this act. The office of financial management shall forward copies of these project lists to the house of representatives capital

budget committee and the senate ways and means committee. No expenditure may be incurred or obligation entered into for minor works appropriations until the office of financial management has approved the allotment of the funds to be expended. The office of financial management shall encourage state agencies to incorporate accessibility planning and improvements into the normal and customary capital program.

NEW SECTION. Sec. 906. (1) The legislature expects projects to be ready to proceed in a timely manner depending on the type or phase of the project or program that is the subject of the appropriation in this act. Except for major projects that customarily may take more than two biennia to complete from predesign to the end of construction, or large infrastructure grant or loan programs supporting projects that often take more than two biennia to complete, the legislature generally does not intend to reappropriate funds more than once, particularly for smaller grant programs, local/community projects, and minor works.

(2) Agencies shall expedite the expenditure of reappropriations and appropriations in this act in order to: (a) Rehabilitate infrastructure resources; (b) accelerate environmental rehabilitation and restoration projects for the improvement of the state's natural environment; (c) reduce additional costs associated with acquisition and construction inflationary pressures; and (d) provide additional employment opportunities associated with capital expenditures.

(3) To the extent feasible, agencies are directed to accelerate expenditure rates at their current level of permanent employees and shall use contracted design and construction services wherever necessary to meet the goals of this section.

(4) The office of financial management shall report the following to the appropriate fiscal committees of the legislature by January 30, 2005: (a) A listing of reappropriations in the governor's 2005-2007 capital budget recommendation that will be reappropriated more than once and have ten percent or more of the original appropriation unexpended; and (b) an explanation of why the appropriation remains unexpended.

***NEW SECTION. Sec. 907. ACQUISITION OF PROPERTIES AND FACILITIES THROUGH FINANCIAL CONTRACTS.** The following agencies may enter into financial contracts, paid from any funds of an agency, appropriated or nonappropriated, for the purposes indicated and in not more than the principal amounts indicated, plus financing expenses and required reserves pursuant to chapter 39.94 RCW. When securing properties under this section, agencies shall use the most economical financial contract option available, including long-term leases, lease-purchase agreements, lease-development with option to purchase agreements or financial contracts using certificates of participation. Expenditures made by an agency for one of the indicated purposes before the issue date of the authorized financial contract and any certificates of participation therein are intended to be reimbursed from proceeds of the financial contract and any certificates of participation therein to the extent provided in the agency's financing plan approved by the state finance committee.

State agencies may enter into agreements with the department of general administration and the state treasurer's office to develop requests to the

legislature for acquisition of properties and facilities through financial contracts. The agreements may include charges for services rendered.

(1) Department of general administration: Enter into a financing contract for an amount approved by the office of financial management for costs and financing expenses and required reserves pursuant to chapter 39.94 RCW to lease develop or lease purchase a state office building of 150,000 to 200,000 square feet on state-owned property in Tumwater according to the terms of the agreement with the Port of Olympia when the property was acquired or within the preferred development/leasing areas in Thurston county. The building shall be constructed and financed so that agency occupancy costs will not exceed comparable private market rental rates. The comparable general office space rate shall be calculated based on the three latest Thurston county leases of new space of at least 100,000 rentable square feet adjusted for inflation as determined by the department of general administration. The department of general administration shall coordinate with potential state agency tenants whose current lease expire near the time of occupancy so that buyout of current leases do not add to state expense. The office of financial management shall certify to the state treasurer: (a) The project description and dollar amount; and (b) that all requirements of this subsection (1) have been met.

(2) Department of veterans affairs: Enter into a financing contract in an amount not to exceed \$1,441,500 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to build and equip a kitchen in existing shell space at the Spokane veterans home and provide space for displaced functions.

(3) Department of corrections:

(a) Enter into a financing contract for up to \$400,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct a waste transfer station and purchase a garbage truck at the McNeil Island corrections center.

(b) Enter into a financing contract for up to \$4,588,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct a transportation services warehouse and offices for correctional industries.

(4) Community and technical colleges:

(a) Enter into a financing contract on behalf of Bellevue Community College for up to \$20,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to purchase North Center campus.

(b) Enter into a financing contract on behalf of Big Bend Community College for up to \$6,500,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct an international conference and training center and dining services center building.

(c) Enter into a financing contract on behalf of Clark Community College for up to \$9,839,464 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct a bookstore, meeting rooms, student lounge, and study space.

(d) Enter into a financing contract on behalf of Green River Community College for up to \$7,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to purchase Kent Station higher education center.

(e) Enter into a financing contract on behalf of Seattle Central Community College for up to \$3,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct an above-ground parking garage.

(f) Enter into a financing contract on behalf of South Puget Sound Community College for up to \$660,000 plus financing expenses and reserves pursuant to chapter 39.94 RCW to construct parking and stormwater mitigation facilities.

(g) Enter into a financing contract on behalf of South Puget Sound Community College for up to \$2,500,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to purchase approximately twenty-five acres of land for a permanent Hawks Prairie campus.

(h) Enter into a financing contract on behalf of Spokane Community College for up to \$725,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to purchase land.

(i) Enter into a financing contract on behalf of Walla Walla Community College for up to \$2,175,100 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to purchase land and construct a building for professional-technical instruction.

(j) Enter into a financing contract on behalf of Walla Walla Community College for up to \$504,400 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to purchase land and buildings at the Clarkston center.

*Sec. 907 was partially vetoed. See message at end of chapter.

NEW SECTION. Sec. 908. FOR THE ARTS COMMISSION—ART WORK ALLOWANCE POOLING. (1) One-half of one percent of moneys appropriated in this act for original construction of school plant facilities is provided solely for the purposes of RCW 28A.335.210. The Washington state arts commission may combine the proceeds from individual projects in order to fund larger works of art or mobile art displays in consultation with the superintendent of public instruction and representatives of school district boards.

(2) One-half of one percent of moneys appropriated in this act for original construction or any major renovation or remodel work exceeding two hundred thousand dollars by colleges or universities is provided solely for the purposes of RCW 28B.10.027. The Washington state arts commission may combine the proceeds from individual projects in order to fund larger works of art or mobile art displays in consultation with the board of regents or trustees.

(3) One-half of one percent of moneys appropriated in this act for original construction of any public building by a state agency as defined in RCW 43.17.020 is provided solely for the purposes of RCW 43.17.200. The Washington state arts commission may combine the proceeds from individual projects in order to fund larger works of art or mobile art displays in consultation with the state agency.

(4) At least eighty-five percent of the moneys spent by the Washington state arts commission during the 2003-2005 biennium for the purposes of RCW 28A.335.210, 28B.10.027, and 43.17.200 must be expended solely for direct acquisition of works of art.

NEW SECTION. Sec.909. The amounts shown under the headings "Prior Biennia," "Future Biennia," and "Total" in this act are for informational purposes only and do not constitute legislative approval of these amounts. "Prior biennia"

typically refers to the immediate prior biennium for reappropriations, but may refer to multiple biennia in the case of specific projects. A "future biennia" amount is an estimate of what may be appropriated for the project or program in the 2005-07 biennium and the following four biennia; an amount of zero does not necessarily constitute legislative intent to not provide funding for the project or program in the future.

NEW SECTION. Sec. 910. "Reappropriations" in this act are appropriations and, unless the context clearly provides otherwise, are subject to the relevant conditions and limitations applicable to appropriations. Reappropriations shall be limited to the unexpended balances remaining on June 30, 2003, from the 2001-2003 biennial appropriations for each project.

NEW SECTION. Sec. 911. To carry out the provisions of this act, the governor may assign responsibility for predesign, design, construction, and other related activities to any appropriate agency.

NEW SECTION. Sec. 912. If any federal moneys appropriated by this act for capital projects are not received by the state, the department or agency to which the moneys were appropriated may replace the federal moneys with funds available from private or local sources. No replacement may occur under this section without the prior approval of the director of financial management in consultation with the senate ways and means committee and the house of representatives capital budget committee.

NEW SECTION. Sec. 913. (1) Unless otherwise stated, for all appropriations under this act that require a match of nonstate money or in-kind contributions, the following requirement, consistent with RCW 43.88.150, shall apply: Expenditures of state money shall be timed so that the state share of project expenditures never exceeds the intended state share of total project costs.

(2) Provision of the full amount of required matching funds is not required to permit the expenditure of capital budget appropriations for phased projects if a proportional amount of the required matching funds is provided for each distinct, identifiable phase of the project.

NEW SECTION. Sec. 914. Any capital improvements or capital projects involving construction or major expansion of a state office facility, including, but not limited to, district headquarters, detachment offices, and off-campus faculty offices, must be reviewed by the department of general administration for possible consolidation, colocation, and compliance with state office standards before allotment of funds. The intent of the requirement imposed by this section is to eliminate duplication and reduce total office space requirements where feasible, while ensuring proper service to the public.

NEW SECTION. Sec. 915. (1) The governor, through the office of financial management, may authorize a transfer of appropriation authority provided for a capital project that is in excess of the amount required for the completion of such project to another capital project for which the appropriation is insufficient. No such transfer may be used to expand the capacity of any facility beyond that intended by the legislature in making the appropriation. Such transfers may be effected only between capital appropriations to a specific department, commission, agency, or institution of higher education and only between capital projects that are funded from the same fund or account. No

transfers may occur between projects to local government agencies except where the grants are provided within a single omnibus appropriation and where such transfers are specifically authorized by the implementing statutes that govern the grants.

(2) For purposes of this section, the governor may find that an amount is in excess of the amount required for the completion of a project only if: (a) The project as defined in the notes to the budget document is substantially complete and there are funds remaining; or (b) bids have been let on a project and it appears to a substantial certainty that the project as defined in the notes to the budget document can be completed within the biennium for less than the amount appropriated in this act.

(3) For the purposes of this section, the legislature intends that each project be defined as proposed to the legislature in the governor's budget document, unless it clearly appears from the legislative history that the legislature intended to define the scope of a project in a different way.

(4) Transfers of funds to an agency's infrastructure savings appropriation are subject to review and approval by the office of financial management. Expenditures from an infrastructure savings appropriation are limited to projects that have a primary purpose to correct infrastructure deficiencies or conditions that: (a) Adversely affect the ability to utilize the infrastructure for its current programmatic use; (b) reduce the life expectancy of the infrastructure; or (c) increase the operating costs of the infrastructure for its current programmatic use. Eligible infrastructure projects may include structures and surface improvements, site amenities, utility systems outside building footprints and natural environmental changes or requirements as part of an environmental regulation, a declaration of emergency for an infrastructure issue in conformance with RCW 43.88.250, or infrastructure planning as part of a facility master plan.

(5) A report of any transfer effected under this section, except emergency projects or any transfer under \$250,000, shall be filed with the legislative fiscal committees of the senate and house of representatives by the office of financial management at least thirty days before the date the transfer is effected. The office of financial management shall report all emergency or smaller transfers within thirty days from the date of transfer.

NEW SECTION. Sec. 916. NONTAXABLE AND TAXABLE BOND PROCEEDS. Portions of the appropriation authority granted by this act from the state building construction account may be transferred to the state taxable building construction account as deemed necessary by the state finance committee to comply with the federal internal revenue service rules and regulations pertaining to the use of nontaxable bond proceeds. The state treasurer shall submit written notification to the director of financial management if it is determined that a shift of appropriation authority from the state building construction account to the state taxable building construction account is necessary.

NEW SECTION. Sec. 917. The office of financial management, in consultation with the department of general administration, shall identify capital projects that may benefit from an energy analysis to determine whether there are alternate, more economical, and energy efficient means of completing the work. The office of financial management shall hold appropriations in allotment

reserve on the following types of capital projects until this analysis can be completed: Heating, ventilation, and air conditioning modifications, chiller plants, steam plants, boilers, chilled water or steam lines, building control systems, lighting improvements, or other major energy using systems that may warrant additional analysis. Agencies receiving appropriations for such projects are encouraged to utilize energy performance contracts or alternative financing for equipment in lieu of state appropriated funds. The office of financial management may transfer funds remaining in allotment reserve to infrastructure savings projects within the agency that has realized savings from energy efficiency alternatives.

Sec. 918. RCW 43.135.045 and 2002 c 33 s 2 are each amended to read as follows:

(1) The emergency reserve fund is established in the state treasury. During each fiscal year, the state treasurer shall deposit in the emergency reserve fund all general fund—state revenues in excess of the state expenditure limit for that fiscal year. Deposits shall be made at the end of each fiscal quarter based on projections of state revenues and the state expenditure limit. The treasurer shall make transfers between these accounts as necessary to reconcile actual annual revenues and the expenditure limit for fiscal year 2000 and thereafter.

(2) The legislature may appropriate moneys from the emergency reserve fund only with approval of at least two-thirds of the members of each house of the legislature, and then only if the appropriation does not cause total expenditures to exceed the state expenditure limit under this chapter. However, during the 2001-2003 biennium, the legislature may transfer moneys from the emergency reserve fund to the general fund only with approval of a majority of the members of each house of the legislature, and then only if the appropriation does not cause total expenditures to exceed the state expenditure limit under this chapter.

(3) The emergency reserve fund balance shall not exceed five percent of annual general fund—state revenues as projected by the official state revenue forecast. Any balance in excess of five percent shall be transferred on a quarterly basis by the state treasurer as follows: Seventy-five percent to the student achievement fund hereby created in the state treasury and twenty-five percent to the general fund balance. The treasurer shall make transfers between these accounts as necessary to reconcile actual annual revenues for fiscal year 2000 and thereafter. When per-student state funding for the maintenance and operation of K-12 education meets a level of no less than ninety percent of the national average of total funding from all sources per student as determined by the most recent published data from the national center for education statistics of the United States department of education, as calculated by the office of financial management, further deposits to the student achievement fund shall be required only to the extent necessary to maintain the ninety-percent level. Remaining funds are part of the general fund balance and these funds are subject to the expenditure limits of this chapter.

(4) The education construction fund is hereby created in the state treasury.

(a) Funds may be appropriated from the education construction fund exclusively for common school construction or higher education construction. During the fiscal years beginning July 1, 2003, and ending June 30, 2005, funds may also be used for higher education facilities preservation and maintenance.

(b) Funds may be appropriated for any other purpose only if approved by a two-thirds vote of each house of the legislature and if approved by a vote of the people at the next general election. An appropriation approved by the people under this subsection shall result in an adjustment to the state expenditure limit only for the fiscal period for which the appropriation is made and shall not affect any subsequent fiscal period.

(5) Funds from the student achievement fund shall be appropriated to the superintendent of public instruction strictly for distribution to school districts to meet the provisions set out in the student achievement act. Allocations shall be made on an equal per full-time equivalent student basis to each school district.

(6) Earnings of the emergency reserve fund under RCW 43.84.092(4)(a) shall be transferred quarterly to the multimodal transportation account, except for those earnings that are in excess of thirty-five million dollars each fiscal year. Within thirty days following any fiscal year in which earnings transferred to the multimodal transportation account under this subsection did not total thirty-five million dollars, the state treasurer shall transfer from the emergency reserve fund an amount necessary to bring the total deposited in the multimodal transportation account under this subsection to thirty-five million dollars. The revenues to the multimodal transportation account reflected in this subsection provide ongoing support for the transportation programs of the state. However, it is the intent of the legislature that any new long-term financial support that may be subsequently provided for transportation programs will be used to replace and supplant the revenues reflected in this subsection, thereby allowing those revenues to be returned to the purposes to which they were previously dedicated.

Sec. 919. RCW 43.135.045 and 2001 c 3 s 9, 2000 2nd sp.s. c 5 s 1, and 2000 2nd sp.s. c 2 s 3 are each reenacted and amended to read as follows:

(1) The emergency reserve fund is established in the state treasury. During each fiscal year, the state treasurer shall deposit in the emergency reserve fund all general fund—state revenues in excess of the state expenditure limit for that fiscal year. Deposits shall be made at the end of each fiscal quarter based on projections of state revenues and the state expenditure limit. The treasurer shall make transfers between these accounts as necessary to reconcile actual annual revenues and the expenditure limit for fiscal year 2000 and thereafter.

(2) The legislature may appropriate moneys from the emergency reserve fund only with approval of at least two-thirds of the members of each house of the legislature, and then only if the appropriation does not cause total expenditures to exceed the state expenditure limit under this chapter.

(3) The emergency reserve fund balance shall not exceed five percent of annual general fund—state revenues as projected by the official state revenue forecast. Any balance in excess of five percent shall be transferred on a quarterly basis by the state treasurer as follows: Seventy-five percent to the student achievement fund hereby created in the state treasury and twenty-five percent to the general fund balance. The treasurer shall make transfers between these accounts as necessary to reconcile actual annual revenues for fiscal year 2000 and thereafter. When per-student state funding for the maintenance and operation of K-12 education meets a level of no less than ninety percent of the national average of total funding from all sources per student as determined by the most recent published data from the national center for education statistics of

the United States department of education, as calculated by the office of financial management, further deposits to the student achievement fund shall be required only to the extent necessary to maintain the ninety-percent level. Remaining funds are part of the general fund balance and these funds are subject to the expenditure limits of this chapter.

(4) The education construction fund is hereby created in the state treasury.

(a) Funds may be appropriated from the education construction fund exclusively for common school construction or higher education construction. During the fiscal years beginning July 1, 2003, and ending June 30, 2005, funds may also be used for higher education facilities preservation and maintenance.

(b) Funds may be appropriated for any other purpose only if approved by a two-thirds vote of each house of the legislature and if approved by a vote of the people at the next general election. An appropriation approved by the people under this subsection shall result in an adjustment to the state expenditure limit only for the fiscal period for which the appropriation is made and shall not affect any subsequent fiscal period.

(5) Funds from the student achievement fund shall be appropriated to the superintendent of public instruction strictly for distribution to school districts to meet the provisions set out in the student achievement act. Allocations shall be made on an equal per full-time equivalent student basis to each school district.

(6) Earnings of the emergency reserve fund under RCW 43.84.092(4)(a) shall be transferred quarterly to the multimodal transportation account, except for those earnings that are in excess of thirty-five million dollars each fiscal year. Within thirty days following any fiscal year in which earnings transferred to the multimodal transportation account under this subsection did not total thirty-five million dollars, the state treasurer shall transfer from the emergency reserve fund an amount necessary to bring the total deposited in the multimodal transportation account under this subsection to thirty-five million dollars. The revenues to the multimodal transportation account reflected in this subsection provide ongoing support for the transportation programs of the state. However, it is the intent of the legislature that any new long-term financial support that may be subsequently provided for transportation programs will be used to replace and supplant the revenues reflected in this subsection, thereby allowing those revenues to be returned to the purposes to which they were previously dedicated.

Sec. 920. RCW 46.09.170 and 1995 c 166 s 9 are each amended to read as follows:

(1) From time to time, but at least once each year, the state treasurer shall refund from the motor vehicle fund one percent of the motor vehicle fuel tax revenues collected under chapter 82.36 RCW, based on the tax rate in effect January 1, 1990, less proper deductions for refunds and costs of collection as provided in RCW 46.68.090. The treasurer shall place these funds in the general fund as follows:

(a) Forty percent shall be credited to the ORV and nonhighway vehicle account and administered by the department of natural resources solely for planning, maintenance, and management of ORV recreation facilities, nonhighway roads, and nonhighway road recreation facilities. The funds under this subsection shall be expended in accordance with the following limitations:

(i) Not more than five percent may be expended for information programs under this chapter;

(ii) Not less than ten percent and not more than fifty percent may be expended for ORV recreation facilities;

(iii) Not more than twenty-five percent may be expended for maintenance of nonhighway roads;

(iv) Not more than fifty percent may be expended for nonhighway road recreation facilities;

(v) Ten percent shall be transferred to the interagency committee for outdoor recreation for grants to law enforcement agencies in those counties where the department of natural resources maintains ORV facilities. This amount is in addition to those distributions made by the interagency committee for outdoor recreation under (d)(i) of this subsection;

(b) Three and one-half percent shall be credited to the ORV and nonhighway vehicle account and administered by the department of fish and wildlife solely for the acquisition, planning, development, maintenance, and management of nonhighway roads and recreation facilities;

(c) Two percent shall be credited to the ORV and nonhighway vehicle account and administered by the parks and recreation commission solely for the maintenance and management of ORV use areas and facilities; and

(d) Fifty-four and one-half percent, together with the funds received by the interagency committee for outdoor recreation under RCW 46.09.110, shall be credited to the nonhighway and off-road vehicle activities program 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. During the fiscal year ending June 30, 2004, a portion of these funds may be appropriated to the department of natural resources to maintain and operate existing ORV and other recreation facilities, including ORV campgrounds, for the state parks and recreation commission to construct and upgrade trails and trail-related facilities for both motorized and nonmotorized uses, and for other activities identified in this section. The funds under this subsection shall be expended in accordance with the following limitations, except that during the fiscal year ending June 30, 2004, funds appropriated to the committee from motor vehicle fuel tax revenues for the activities in (d)(ii) and (iii) of this subsection shall be reduced by the amounts appropriated to the department of natural resources and the state parks and recreation commission as provided in this subsection:

(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. 921. RCW 43.88.032 and 1997 c 96 s 5 are each amended to read as follows:

(1) Normal maintenance costs, except for funds appropriated for facility preservation of state institutions of higher education, shall be programmed in the operating budget rather than in the capital budget.

(2) All debt-financed pass-through money to local governments shall be programmed and separately identified in the budget document.

NEW SECTION. Sec. 922. The University of Washington shall develop a ten year program for the eventual relocation of the residents of the floating homes located at 1409 NE Boat street. After meeting and negotiating with the affected residents, the University of Washington shall develop a report to the legislature. The report, giving the various options for achieving relocation, shall be submitted no later than January 15, 2004, to the senate ways and means committee and the house of representatives capital budget committee. Relocation may include the purchase and rental back of existing homes through reverse declining purchase agreements, the physical relocation of the floating homes to other locations, the creation of a buy-back fund, the relocation of residents in concert with the purchase of the existing residences, or other creative real estate transactions that achieve the relocation of the existing residents or floating homes.

NEW SECTION. Sec. 923. (1) The joint legislative audit and review committee shall conduct a performance audit of state capital planning, design, and construction processes. In conducting this study, the committee shall select a sample of major capital projects from the 1995-97 through the 2003-05 biennia in higher education, corrections, social and health services, and other state agencies. Capital projects selected for this sample shall accommodate regional differences within the state. The committee shall consider the following topics in conducting this performance audit:

(a) Agency development, evaluation, and justification of the cost drivers and cost elements associated with each of the major phases of a capital project: General or master planning, predesign, design, construction, and postconstruction review;

(b) Evaluation of the management and fiscal controls surrounding agency capital project decision making and implementation processes, such as policy goals, planning procedures, budget limits, cost and performance standards, criteria for selecting project priorities, written instructions, review processes, as well as management, oversight, reporting, and accountability systems;

(c) Processes and standards for cost-effective and efficient design and construction contracting, management, oversight, and review;

(d) Assignment of agency staff and administrative costs to major capital construction projects and the relationship of such agency costs to project delivery;

(e) Extent of the practice of including equipment as part of the basic capital project costs, and how equipment costs are estimated and evaluated for inclusion in projects; and

(f) Comparison of costs to public and private sector benchmarks, when available and where appropriate, in establishing cost parameters for state capital construction projects.

(2) To the extent resources permit, the audit shall include a review of public works projects utilizing the general contractor/construction manager procedure. This may include: An inventory of the state agencies and local jurisdictions that have used the general contractor/construction manager procedure, including the number, size, type, and cost of public works projects built or being built using the procedure; an examination of the ways the general contractor/construction manager procedure may affect public benefits and costs associated with public works projects; and, if feasible, based on a sample of public works projects built after June 9, 1994, an analysis of the costs and benefits of using the general contractor/construction manager procedure as opposed to other public works contracting procedures.

(3) State agencies, including state public higher education institutions, shall provide any requested information concerning the planning, selection, design, contracting, implementation, management, costs, performance, and outcomes of projects to the joint legislative audit and review committee in a timely manner, including relevant proprietary information that may be associated with individual firms. However, any proprietary information provided to the committee for this performance audit shall be deemed confidential and shall not be subject to public disclosure.

(4) In conducting this performance audit, the committee shall work closely with the appropriate legislative fiscal committees and shall consult with the office of financial management, the department of general administration, the department of corrections, the department of social and health services, the higher education coordinating board, the state board for community and technical colleges, individual higher education institutions, and other agencies as appropriate. The committee may contract for consulting services in conducting this performance audit. In its final report, the committee shall make recommendations as appropriate. The committee shall provide a progress report to the appropriate legislative committees by January 9, 2004, and a final report by January 8, 2005.

NEW SECTION. Sec. 924. The joint legislative audit and review committee, in collaboration with the legislative evaluation and accountability program, shall accomplish the following higher education comparable framework tasks and projects during the 2003-05 biennium:

- (1) Fill in comparable framework gaps related to infrastructure.
 - (a) Develop inventory and condition protocols/standards;
 - (b) Develop infrastructure cost factors;
 - (c) Facilitate institution data collection and reporting;
 - (d) Field-verify data on a sample basis;
 - (e) Develop translation protocols;
 - (f) Translate data and populate comparable framework.
- (2) Explore the feasibility of including dates of renewal and replacement of major building systems in the comparable framework.
 - (a) Develop protocols/standards;
 - (b) Facilitate institution data collection and reporting;
 - (c) Field-verify data on a sample basis;
 - (d) Develop translation protocols;
 - (e) Translate data and populate comparable framework.

(3) Explore how the comparable framework could be expanded to facility modernization.

(a) Analyze the feasibility of and approaches to quantifying modernization backlogs across institutions;

(b) Describe current modernization rating processes used by individual institutions including how they fit into master plans, program delivery choices, and other manifestations related to the development of requests for capital support from the state;

(c) Explore models used in other government sectors;

(d) Assess benefits and costs of potential approaches.

(4) Explore how to integrate the comparable framework with governmental accounting standards for accountability related to the efficiency and effectiveness of managing public assets.

(5) Revise and update the comparable framework data base.

(a) Modify and/or develop, as needed, tables, queries, and reports;

(b) Develop reporting capabilities to share data with other legislative agencies, the office of financial management, the higher education coordinating board, the state board for community and technical colleges, and state institutions of higher education.

In executing these tasks, the joint legislative audit and review committee shall seek technical advice and input from stakeholder groups including but not limited to the office of financial management, the higher education coordinating board, the state board for community and technical colleges, and the council of presidents.

As a general condition upon appropriations provided to higher education institutions in part five of this act, higher education institutions, the higher education coordinating board, the office of financial management, and the state board for community and technical colleges shall provide any requested information to the joint legislative audit and review committee in a timely manner to enable its completion of the above tasks and projects so assigned.

NEW SECTION. Sec. 925. (1) In concert with a commitment to increase higher education funding levels significantly above historic levels in this biennium and the following two biennia for primarily access-related projects, the legislature is directing a substantial share of state capital resources to reduce the backlog in facility preservation, focusing on the worst and most critical facilities first. The first commitment is dependent on the latter. To that end and through this act, the legislature begins to address findings and recommendations from the higher education preservation study by the joint legislative audit and review committee, report 03-1, by taking the following actions:

(a) The 2003 legislature affirms that proactive and ongoing facility maintenance, properly supported, can prevent and mitigate preservation backlogs and maximize the useful life of physical assets supported by, used by, and beneficial to state taxpayers. As a step toward that end, the legislature appropriates in this act a portion of the facilities operating and maintenance costs for building maintenance traditionally appropriated in the omnibus operating budget. This is done in "preventative facility maintenance and building system repairs" sections for each four-year institution and the community and technical college system.

(b) The 2003 legislature affirms the importance of reducing the significant higher education preservation backlog, of instilling a greater sense of stewardship regarding these important state assets, and of preventing the current backlog from reoccurring. The legislature recognizes that the preservation backlog took many years to develop and will take several years to address. The legislature intends that each higher education institution and the community and technical college system stabilize and improve the average facility condition index as compared to levels reported by the higher education preservation study in January 2003.

(c) The 2003 legislature affirms the importance of continuing to address these preservation issues, including developing a comparable framework. Section 924 of this act (JLARC work) is intended to build a foundation for capital budget policy and funding deliberations in the 2005-07 biennium, and beyond.

(2) The emphasis on higher education facility preservation described in subsections (1)(a) and (b) of this section provide extra resources for projects that traditionally fall into minor works categories for "preservation" and "health/safety/code requirements" but not to the exclusion of providing state capital funds for minor works "program" and "infrastructure preservation" projects, separately appropriated. The legislature intends to review infrastructure needs for college and university campuses comprehensively, with the assistance of the joint legislative audit and review committee, the office of financial management, and stakeholder institutions and boards during the interim leading up to the 2005-07 biennium. Until comprehensive, comparable data is collected to inform deliberations, higher education institutions may find it necessary to use local, nonappropriated resources to augment 2003-05 biennial funds given the legislature's intent and focus in this act on the deferred renewal needs of aging college facilities. Nonappropriated resources should be used to help meet preservation needs in the spirit of recommendation 3 from the joint legislative audit and review committee's report 03-1.

(3) For projects that address significant preservation needs through major renovations or replacement facilities and that also enhance access by maintaining or improving the usefulness of existing space for important programs, the Gardner-Evans initiative may be appropriate to help fund these projects.

(4) For the purposes of this section and sections that specifically refer to this section by number, the following definitions apply unless the context clearly requires otherwise:

(a) "Auxiliary programs" in the context of higher education means those that are secondary to the missions of state institutions and, being enterprise in character, draw supporting revenue from user fees and charges. Examples include housing and dining; food services; vehicular parking; infirmaries; hospitals; recreation and student-activity centers; campus stores retailing textbooks, supplies, clothing, and objects bearing institutional logos or emblems; and media reproduction centers, among others.

(b) "Average facility condition index" means the index developed in the joint legislative audit and review committee's report number 03-1.

(c) "Comparable framework" means methods and systems to collect, crosswalk, calibrate, verify on a sample basis, and assemble facilities

information produced and maintained by institutions of higher education and other state agencies into a data framework that can be used to understand and budget for state and mixed facilities.

(d) "Educational and general programs" in the context of higher education means those that support the primary missions of state institutions: Student instruction, faculty research, and educational public service.

(e) "Facility rating" is a score that reflects an individual building's ability to support its current use as measured against one out of five condition classes as follows:

(i) "One" or "superior" means a building with major systems that are in extremely good condition and functioning well;

(ii) "Two" or "adequate" means a building with major systems in good condition, functioning adequately, and within their expected life cycles;

(iii) "Three" or "fair" means a building with some older major systems that, though still functional, are approaching the end of their expected life cycles;

(iv) "Four" or "limited functionality" means a building with some major systems that are in poor condition, exceed expected life cycles, and require immediate attention to prevent or mitigate impacts on function;

(v) "Five" or "marginal functionality" means a building with some major systems that are failing and significantly restrict continued use of the building.

(f) "Gardner-Evans initiative" means the bonds authorized in chapter . . . (Substitute Senate Bill No. 5908), Laws of 2003.

(g) "Major building system" refers to foundations, building structure, roofs, interior construction and finishes, heating, ventilation, and air conditioning systems, electrical systems, plumbing, and other components necessary for safe and normal plant operation.

(h) "Mixed facilities" in the context of higher education means a state-owned building structure where education and general and auxiliary programs are jointly housed, and includes infrastructure necessary for safe and normal operations by its occupants.

(i) "Preservation" means routine and preventive inspection, mechanical adjustments, and minor work to replace or repair systems, surfaces, or materials undertaken to maintain a building and its existing, internal infrastructure for current use by current occupants.

(j) "State facilities" in the context of higher education means a state-owned building structure exclusively housing educational and general programs, and includes infrastructure necessary for safe and normal operation by its occupants.

(k) "Stewardship" means the collective action undertaken with appropriated and nonappropriated funds by institutional authorities to keep facilities in safe and functional condition for occupants, without deterioration for lack of attention or resources, that optimize the useful life of installed building systems and material construction, given advancing age.

Sec. 926. RCW 42.17.310 and 2002 c 335 s 1, 2002 c 224 s 2, 2002 c 205 s 4, and 2002 c 172 s 1 are each reenacted and amended to read as follows:

(1) The following are exempt from public inspection and copying:

(a) Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, or welfare recipients.

(b) Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy.

(c) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would (i) be prohibited to such persons by RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the taxpayer's right to privacy or result in unfair competitive disadvantage to the taxpayer.

(d) Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy.

(e) Information revealing the identity of persons who are witnesses to or victims of crime or who file complaints with investigative, law enforcement, or penology agencies, other than the public disclosure commission, if disclosure would endanger any person's life, physical safety, or property. If at the time a complaint is filed the complainant, victim or witness indicates a desire for disclosure or nondisclosure, such desire shall govern. However, all complaints filed with the public disclosure commission about any elected official or candidate for public office must be made in writing and signed by the complainant under oath.

(f) Test questions, scoring keys, and other examination data used to administer a license, employment, or academic examination.

(g) Except as provided by chapter 8.26 RCW, the contents of real estate appraisals, made for or by any agency relative to the acquisition or sale of property, until the project or prospective sale is abandoned or until such time as all of the property has been acquired or the property to which the sale appraisal relates is sold, but in no event shall disclosure be denied for more than three years after the appraisal.

(h) Valuable formulae, designs, drawings, computer source code or object code, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss.

(i) Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies formulated or recommended except that a specific record shall not be exempt when publicly cited by an agency in connection with any agency action.

(j) Records which are relevant to a controversy to which an agency is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts.

(k) Records, maps, or other information identifying the location of archaeological sites in order to avoid the looting or depredation of such sites.

(l) Any library record, the primary purpose of which is to maintain control of library materials, or to gain access to information, which discloses or could be used to disclose the identity of a library user.

(m) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for (i) a ferry system construction or repair contract as required by RCW 47.60.680

through 47.60.750 or (ii) highway construction or improvement as required by RCW 47.28.070.

(n) Railroad company contracts filed prior to July 28, 1991, with the utilities and transportation commission under RCW 81.34.070, except that the summaries of the contracts are open to public inspection and copying as otherwise provided by this chapter.

(o) Financial and commercial information and records supplied by private persons pertaining to export services provided pursuant to chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to export projects pursuant to RCW 43.23.035.

(p) Financial disclosures filed by private vocational schools under chapters 28B.85 and 28C.10 RCW.

(q) Records filed with the utilities and transportation commission or attorney general under RCW 80.04.095 that a court has determined are confidential under RCW 80.04.095.

(r) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW, or during application for economic development loans or program services provided by any local agency.

(s) Membership lists or lists of members or owners of interests of units in timeshare projects, subdivisions, camping resorts, condominiums, land developments, or common-interest communities affiliated with such projects, regulated by the department of licensing, in the files or possession of the department.

(t) All applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to an applicant.

(u) The residential addresses or residential telephone numbers of employees or volunteers of a public agency which are held by any public agency in personnel records, public employment related records, or volunteer rosters, or are included in any mailing list of employees or volunteers of any public agency.

(v) The residential addresses and residential telephone numbers of the customers of a public utility contained in the records or lists held by the public utility of which they are customers, except that this information may be released to the division of child support or the agency or firm providing child support enforcement for another state under Title IV-D of the federal social security act, for the establishment, enforcement, or modification of a support order.

(w)(i) The federal social security number of individuals governed under chapter 18.130 RCW maintained in the files of the department of health, except this exemption does not apply to requests made directly to the department from federal, state, and local agencies of government, and national and state licensing, credentialing, investigatory, disciplinary, and examination organizations; (ii) the current residential address and current residential telephone number of a health care provider governed under chapter 18.130 RCW maintained in the files of the department, if the provider requests that this information be withheld from public inspection and copying, and provides to the department an accurate alternate or business address and business telephone number. On or after January 1, 1995, the current residential address and residential telephone number

of a health care provider governed under RCW 18.130.040 maintained in the files of the department shall automatically be withheld from public inspection and copying unless the provider specifically requests the information be released, and except as provided for under RCW 42.17.260(9).

(x) Information obtained by the board of pharmacy as provided in RCW 69.45.090.

(y) Information obtained by the board of pharmacy or the department of health and its representatives as provided in RCW 69.41.044, 69.41.280, and 18.64.420.

(z) Financial information, business plans, examination reports, and any information produced or obtained in evaluating or examining a business and industrial development corporation organized or seeking certification under chapter 31.24 RCW.

(aa) Financial and commercial information supplied to the state investment board by any person when the information relates to the investment of public trust or retirement funds and when disclosure would result in loss to such funds or in private loss to the providers of this information.

(bb) Financial and valuable trade information under RCW 51.36.120.

(cc) Client records maintained by an agency that is a domestic violence program as defined in RCW 70.123.020 or 70.123.075 or a rape crisis center as defined in RCW 70.125.030.

(dd) Information that identifies a person who, while an agency employee:

(i) Seeks advice, under an informal process established by the employing agency, in order to ascertain his or her rights in connection with a possible unfair practice under chapter 49.60 RCW against the person; and (ii) requests his or her identity or any identifying information not be disclosed.

(ee) Investigative records compiled by an employing agency conducting a current investigation of a possible unfair practice under chapter 49.60 RCW or of a possible violation of other federal, state, or local laws prohibiting discrimination in employment.

(ff) Business related information protected from public inspection and copying under RCW 15.86.110.

(gg) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the clean Washington center in applications for, or delivery of, program services under chapter 70.95H RCW.

(hh) Information and documents created specifically for, and collected and maintained by a quality improvement committee pursuant to RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW 4.24.250, regardless of which agency is in possession of the information and documents.

(ii) Personal information in files maintained in a data base created under RCW 43.07.360.

(jj) Financial and commercial information requested by the public stadium authority from any person or organization that leases or uses the stadium and exhibition center as defined in RCW 36.102.010.

(kk) Names of individuals residing in emergency or transitional housing that are furnished to the department of revenue or a county assessor in order to substantiate a claim for property tax exemption under RCW 84.36.043.

(ll) The names, residential addresses, residential telephone numbers, and other individually identifiable records held by an agency in relation to a vanpool,

carpool, or other ride-sharing program or service. However, these records may be disclosed to other persons who apply for ride-matching services and who need that information in order to identify potential riders or drivers with whom to share rides.

(mm) The personally identifying information of current or former participants or applicants in a paratransit or other transit service operated for the benefit of persons with disabilities or elderly persons.

(nn) The personally identifying information of persons who acquire and use transit passes and other fare payment media including, but not limited to, stored value smart cards and magnetic strip cards, except that an agency may disclose this information to a person, employer, educational institution, or other entity that is responsible, in whole or in part, for payment of the cost of acquiring or using a transit pass or other fare payment media, or to the news media when reporting on public transportation or public safety. This information may also be disclosed at the agency's discretion to governmental agencies or groups concerned with public transportation or public safety.

(oo) Proprietary financial and commercial information that the submitting entity, with review by the department of health, specifically identifies at the time it is submitted and that is provided to or obtained by the department of health in connection with an application for, or the supervision of, an antitrust exemption sought by the submitting entity under RCW 43.72.310. If a request for such information is received, the submitting entity must be notified of the request. Within ten business days of receipt of the notice, the submitting entity shall provide a written statement of the continuing need for confidentiality, which shall be provided to the requester. Upon receipt of such notice, the department of health shall continue to treat information designated under this section as exempt from disclosure. If the requester initiates an action to compel disclosure under this chapter, the submitting entity must be joined as a party to demonstrate the continuing need for confidentiality.

(pp) Records maintained by the board of industrial insurance appeals that are related to appeals of crime victims' compensation claims filed with the board under RCW 7.68.110.

(qq) Financial and commercial information supplied by or on behalf of a person, firm, corporation, or entity under chapter 28B.95 RCW relating to the purchase or sale of tuition units and contracts for the purchase of multiple tuition units.

(rr) Any records of investigative reports prepared by any state, county, municipal, or other law enforcement agency pertaining to sex offenses contained in chapter 9A.44 RCW or sexually violent offenses as defined in RCW 71.09.020, which have been transferred to the Washington association of sheriffs and police chiefs for permanent electronic retention and retrieval pursuant to RCW 40.14.070(2)(b).

(ss) Credit card numbers, debit card numbers, electronic check numbers, card expiration dates, or bank or other financial account numbers supplied to an agency for the purpose of electronic transfer of funds, except when disclosure is expressly required by law.

(tt) Financial information, including but not limited to account numbers and values, and other identification numbers supplied by or on behalf of a person,

firm, corporation, limited liability company, partnership, or other entity related to an application for a liquor license, gambling license, or lottery retail license.

(uu) Records maintained by the employment security department and subject to chapter 50.13 RCW if provided to another individual or organization for operational, research, or evaluation purposes.

(vv) Individually identifiable information received by the work force training and education coordinating board for research or evaluation purposes.

(ww) Those portions of records assembled, prepared, or maintained to prevent, mitigate, or respond to criminal terrorist acts, which are acts that significantly disrupt the conduct of government or of the general civilian population of the state or the United States and that manifest an extreme indifference to human life, the public disclosure of which would have a substantial likelihood of threatening public safety, consisting of:

(i) Specific and unique vulnerability assessments or specific and unique response or deployment plans, including compiled underlying data collected in preparation of or essential to the assessments, or to the response or deployment plans; and

(ii) Records not subject to public disclosure under federal law that are shared by federal or international agencies, and information prepared from national security briefings provided to state or local government officials related to domestic preparedness for acts of terrorism.

(xx) Commercial fishing catch data from logbooks required to be provided to the department of fish and wildlife under RCW 77.12.047, when the data identifies specific catch location, timing, or methodology and the release of which would result in unfair competitive disadvantage to the commercial fisher providing the catch data. However, this information may be released to government agencies concerned with the management of fish and wildlife resources.

(yy) Sensitive wildlife data obtained by the department of fish and wildlife. However, sensitive wildlife data may be released to government agencies concerned with the management of fish and wildlife resources. Sensitive wildlife data includes:

(i) The nesting sites or specific locations of endangered species designated under RCW 77.12.020, or threatened or sensitive species classified by rule of the department of fish and wildlife;

(ii) Radio frequencies used in, or locational data generated by, telemetry studies; or

(iii) Other location data that could compromise the viability of a specific fish or wildlife population, and where at least one of the following criteria are met:

(A) The species has a known commercial or black market value;

(B) There is a history of malicious take of that species; or

(C) There is a known demand to visit, take, or disturb, and the species behavior or ecology renders it especially vulnerable or the species has an extremely limited distribution and concentration.

(zz) The personally identifying information of persons who acquire recreational licenses under RCW 77.32.010 or commercial licenses under chapter 77.65 or 77.70 RCW, except name, address of contact used by the

department, and type of license, endorsement, or tag. However, the department of fish and wildlife may disclose personally identifying information to:

(i) Government agencies concerned with the management of fish and wildlife resources;

(ii) The department of social and health services, child support division, and to the department of licensing in order to implement RCW 77.32.014 and 46.20.291; and

(iii) Law enforcement agencies for the purpose of firearm possession enforcement under RCW 9.41.040.

(aaa)(i) Discharge papers of a veteran of the armed forces of the United States filed at the office of the county auditor before July 1, 2002, that have not been commingled with other recorded documents. These records will be available only to the veteran, the veteran's next of kin, a deceased veteran's properly appointed personal representative or executor, a person holding that veteran's general power of attorney, or to anyone else designated in writing by that veteran to receive the records.

(ii) Discharge papers of a veteran of the armed forces of the United States filed at the office of the county auditor before July 1, 2002, that have been commingled with other records, if the veteran has recorded a "request for exemption from public disclosure of discharge papers" with the county auditor. If such a request has been recorded, these records may be released only to the veteran filing the papers, the veteran's next of kin, a deceased veteran's properly appointed personal representative or executor, a person holding the veteran's general power of attorney, or anyone else designated in writing by the veteran to receive the records.

(iii) Discharge papers of a veteran filed at the office of the county auditor after June 30, 2002, are not public records, but will be available only to the veteran, the veteran's next of kin, a deceased veteran's properly appointed personal representative or executor, a person holding the veteran's general power of attorney, or anyone else designated in writing by the veteran to receive the records.

(iv) For the purposes of this subsection (1)(aaa), next of kin of deceased veterans have the same rights to full access to the record. Next of kin are the veteran's widow or widower who has not remarried, son, daughter, father, mother, brother, and sister.

(bbb) Those portions of records containing specific and unique vulnerability assessments or specific and unique emergency and escape response plans at a city, county, or state adult or juvenile correctional facility, the public disclosure of which would have a substantial likelihood of threatening the security of a city, county, or state adult or juvenile correctional facility or any individual's safety.

(ccc) Information compiled by school districts or schools in the development of their comprehensive safe school plans pursuant to RCW 28A.320.125, to the extent that they identify specific vulnerabilities of school districts and each individual school.

(ddd) Information regarding the infrastructure and security of computer and telecommunications networks, consisting of security passwords, security access codes and programs, access codes for secure software applications, security and service recovery plans, security risk assessments, and security test results to the extent that they identify specific system vulnerabilities.

(eee) Proprietary information deemed confidential for the purposes of section 923 of this act.

(2) Except for information described in subsection (1)(c)(i) of this section and confidential income data exempted from public inspection pursuant to RCW 84.40.020, the exemptions of this section are inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital governmental interests, can be deleted from the specific records sought. No exemption may be construed to permit the nondisclosure of statistical information not descriptive of any readily identifiable person or persons.

(3) Inspection or copying of any specific records exempt under the provisions of this section may be permitted if the superior court in the county in which the record is maintained finds, after a hearing with notice thereof to every person in interest and the agency, that the exemption of such records is clearly unnecessary to protect any individual's right of privacy or any vital governmental function.

(4) Agency responses refusing, in whole or in part, inspection of any public record shall include a statement of the specific exemption authorizing the withholding of the record (or part) and a brief explanation of how the exemption applies to the record withheld.

NEW SECTION. Sec. 927. Sections 918 through 921, 926, and 929 of this act expire June 30, 2005.

NEW SECTION. Sec. 928. A new section is added to chapter 43.63A RCW to read as follows:

(1) The airport impact mitigation account is created in the custody of the state treasury. Moneys deposited in the account, including moneys received from the port of Seattle for purposes of this section, may be used only for airport mitigation purposes as provided in this section. Only the director of the department of community, trade, and economic development or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) The department of community, trade, and economic development shall establish a competitive process to prioritize applications for airport impact mitigation assistance through the account created in subsection (1) of this section. The department shall conduct a solicitation of project applications in the airport impact area as defined in subsection (4) of this section. Eligible applicants include public entities such as cities, counties, schools, parks, fire districts, and shall include organizations eligible to apply for grants under RCW 43.63A.125. The department of community, trade, and economic development shall evaluate and rank applications in conjunction with the airport impact mitigation advisory board established in subsection (3) of this section using objective criteria developed by the department in conjunction with the airport impact mitigation advisory board. At a minimum, the criteria must consider: The extent to which the applicant is impacted by the airport; and the other resources available to the applicant to mitigate the impact, including other mitigation funds. The director of the department of community, trade, and economic development shall award grants annually to the extent funds are available in the account created in subsection (1) of this section.

(3) The director of the department of community, trade, and economic development shall establish the airport impact mitigation advisory board comprised of persons in the airport impact area to assist the director in developing criteria and ranking applications under this section. The advisory board shall include representation of local governments, the public in general, businesses, schools, community services organizations, parks and recreational activities, and others at the discretion of the director. The advisory board shall be weighted toward those communities closest to the airport that are more adversely impacted by airport activities.

(4) The airport impact area includes the incorporated areas of Burien, Normandy Park, Des Moines, SeaTac, Tukwilla, Kent, and Federal Way, and the unincorporated portion of west King county.

(5) The department of community, trade, and economic development shall report on its activities related to the account created in this section by January 1, 2004, and each January 1st thereafter.

Sec. 929. RCW 79A.05.630 and 2000 c 11 s 50 are each amended to read as follows:

(1) Lands within the Seashore Conservation Area shall not be sold, leased, or otherwise disposed of, except as (~~herein~~) provided in this section. The commission may, under authority granted in RCW 79A.05.175 and 79A.05.180, exchange state park lands in the Seashore Conservation Area for lands of equal value to be managed by the commission consistent with this chapter. Only state park lands lying east of the Seashore Conservation Line, as it is located at the time of exchange, may be so exchanged. The department of natural resources may lease the lands within the Washington State Seashore Conservation Area as well as the accreted lands along the ocean in state ownership for the exploration and production of oil and gas(~~:- PROVIDED, That~~). However, oil drilling rigs and equipment will not be placed on the Seashore Conservation Area or state-owned accreted lands.

(2) Sale of sand from accretions shall be made to supply the needs of cranberry growers for cranberry bogs in the vicinity and shall not be prohibited if found by the commission to be reasonable, and not generally harmful or destructive to the character of the land(~~:- PROVIDED, That~~). However, the commission may grant leases and permits for the removal of sands for construction purposes from any lands within the Seashore Conservation Area if found by the commission to be reasonable and not generally harmful or destructive to the character of the land(~~:- PROVIDED FURTHER, That~~). The net income from such leases shall be deposited in the state parks renewal and stewardship account.

(3) For the 2003-05 fiscal biennium, at the request of the city of Long Beach, the state parks and recreation commission shall convey to the city of Long Beach all commission-owned lands lying between 5th street southwest and 4th street northwest, and lying between 8th street northwest and 14th street northwest, all lying between the 1889 ordinary high tide line (also known as the western boundary of upland ownership) and the line of ordinary high tide of the Pacific ocean, and all lying within sections 8 and 17, township 10 north, range 11, west, W.M., Pacific county, Washington. The city of Long Beach must maintain these lands for city park purposes, including open space, parks, interpretive centers, or museums. The title, and any other documents necessary

for the transfer of these lands, will include covenants ensuring that the city of Long Beach will maintain all conveyed land as a city park and that if the city of Long Beach breaches these covenants, ownership of all park lands conveyed under this subsection reverts to the state parks and recreation commission.

NEW SECTION. Sec. 930. 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. 931. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately, except for section 919 of this act which takes effect June 30, 2003.

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Passed by the Senate June 5, 2003.

Passed by the House June 5, 2003.

Approved by the Governor June 26, 2003, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State June 26, 2003.

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

"I am returning herewith, without my approval as to sections 103; 148(1); 156(1); 161, lines 4-13 and lines 16-17; 171, lines 24-32; 172(1); 172(2); 215(1); 227(2); 229(1); 229(2); 232(3); 273(5); 304(2); 352(2); 401; 429; 620; 783; 816(1); 816(2); 816(3); 821(1); 821(2); 821(3); and 907(4)(g) of Substitute Senate Bill No. 5401 entitled:

"AN ACT Relating to the capital budget;"

Substitute Senate Bill No. 5401 is the state capital budget for the 2003-2005 Biennium. I have vetoed several provisions as described below:

Section 103, page 2, Office of the State Auditor

This appropriation would have provided \$100,000 from the Thurston County Capital Facilities Account to move the Auditor from the Sunset Building and to purchase equipment. These proposed uses are inconsistent with the Thurston County Capital Facilities Account, as defined in existing statute. Moving costs are agency responsibilities within their operating budgets.

Section 148 (1), page 23, Department of Community, Trade, and Economic Development

The first proviso for the Seventh Street Theatre cites to Section 906(2)(b), which is intended for the acceleration of environmental rehabilitation and restoration projects. This project does not relate to natural resources and the reference is apparently in error.

Section 156 (1), page 28, Office of Financial Management (OFM)

Section 156(1) would have directed OFM to emphasize particular factors when reviewing capital appropriation requests from state agencies. This directive unnecessarily adds to existing statutory requirements already in place.

Section 161, page 30, lines 4 - 13 and lines 16-17, Department of General Administration

This appropriation would have provided \$500,000 from the Thurston County Capital Facilities Account for Heritage Park. This appropriation is inconsistent with the purpose of the account as defined in statute. Heritage Park is an element of the state capitol campus and seat of government. Improvements to the park should be financed from general state obligations and not from funds derived from agency collected fees for services.

Section 171, page 34, lines 24 - 32, Department of General Administration

This proviso would have directed a revision to an existing agreement between the Insurance Commissioner and the department, which is already complete. The funds referenced in the proviso were spent on the feasibility study during the 2001-2003 Biennium.

Section 172(1) and (2), page 35, Department of General Administration

Subsections (1) and (2) would have created restrictions on projects less than \$1 million by prohibiting use of funds for studies, surveys or carpet replacement. The funds appropriated in this section derive from agency fees for services so that the Department of General Administration can adequately maintain state-owned facilities, as required by statute. This proviso language would have unduly restricted the agency's ability to evaluate and remedy maintenance needs as they occur, potentially resulting in higher costs in the future.

Section 215(1), page 46, Department of Social and Health Services

Section 215(1) would have prohibited the expenditure of reappropriated funds for developmental disabilities facilities subject to closure. The language is ambiguous in its intent, since no developmental disabilities facility is scheduled for closure in the 2003-2005 biennium. Furthermore, if this prohibition were applied to each structure in a facility, it could prevent the preservation of essential buildings and jeopardize certification and eligibility for federal funding.

Section 227(2), page 50, Department of Social and Health Services

Section 227(2) would have prohibited the use of funds for demolition of abandoned structures at facilities managed by the Division of Developmental Disabilities. There is in excess of 300,000

square feet of abandoned and hazardous buildings already scheduled for demolition at Fircrest School, Rainier School, Lakeland Village and Yakima Valley School. Prohibiting removal of these buildings is inefficient and a risk to public safety.

Section 229(1) and (2), page 51, Department of Social and Health Services

In the operating budget, the department is required to develop a transition plan for the residential consolidation of clients from the Fircrest School. That transition plan will be complete by January 2004. The capital budget language in Section 229(1) and (2) would have required a capital facilities plan based on the operational planning determinations from this transition plan. Since the capital facilities plan would be due September 2003, it would create an inconsistency in the schedule of the operating plan.

Section 232(3), page 53, Department of Social and Health Services

Section 232(3) would have required review and approval by both the executive and legislative branches for a Juvenile Rehabilitation planning study. Since required components of the study are listed in Section 232(2), and the final study must be submitted to the Legislature, it is unnecessary to also submit the preliminary outline of project scope.

Section 273(5), page 67, Department of Corrections

Section 273(5) would have required review and approval of the Master Plan scope of work by both the executive and legislative branches. Since other provisos in this section indicate the objectives and components of this effort, it is unnecessary for the department to obtain additional approval for the initial scope of work.

Section 304(2), page 71, Department of Ecology

This subsection would have provided \$1.8 million of Local Toxics Control Account grants to Klickitat County for removal, disposal or recycling of vehicle tires. This effort is not an eligible project under the Local Toxics Control Account Remedial Action Cleanup Program. To be eligible for such funding, a site must be under an agreed-upon order or consent decree, have completed a site assessment and cleanup plan, and be a declared toxic waste site. This site does not meet these criteria.

Subsection 352 (2), Page 90, Interagency Committee for Outdoor Recreation

This proviso would have eliminated reappropriated funds available to the Washington Wildlife and Recreation Program (WWRP) on December 31, 2003. If these funds lapse, several local parks and/or recreational projects would be terminated due to the loss of state matching funds used to leverage local resources. Parks, trails and recreational areas are in short supply and it is the wrong time to shut down projects that eliminate jobs important to the vitality of local communities.

Section 401, Page 109, Department of Fish and Wildlife

This section would have appropriated \$500,000 to develop a Wind Power Alternative Mitigation Pilot Program for the purpose of streamlining the mitigation process for wind power projects and associated habitat. While I fully support efforts to develop this renewable energy resource, additional direction is needed from the Legislature to determine the proper components of this program.

Section 429, Page 119, Department of Natural Resources (DNR)

This section would have provided \$900,000 of general obligation bond funds to digitize an unspecified portion of the DNR geology library, which is being reduced to one full-time equivalent (FTE) in the operating budget. Expenses of this type are operating, not capital in nature, and are not appropriate for bond financing. In addition, the cost of digitizing the library collection is greater than the biennial cost to operate the geology library at the 2001-03 staffing level.

Section 620, Page 133, University of Washington

This proviso would have assumed legislative approval of a future transportation budget. The reappropriated funds would have completed the design, right-of-way acquisition and environmental permits for an off-ramp into the University of Washington (UW) Bothell campus from State Route 522. The off-ramp is a requirement of the city of Bothell for future campus development of UW-Bothell and Cascadia Community College. However, due to anticipated student enrollment, additional campus development is not expected within the next six to ten years.

Section 783, Page 194, Community and Technical College System

This proviso would have assumed legislative approval of a future transportation budget. The reappropriated funds would have completed the design, right-of-way acquisition and environmental permits for an off-ramp into the Cascadia Community College campus from State Route 522. The off-ramp is a requirement of the city of Bothell for future campus development of UW-Bothell and Cascadia Community College. However, due to anticipated student enrollment, additional campus development is not expected within the next six to ten years.

Section 816(1), (2) and (3), Page 208, Community and Technical College System

These provisos would have placed overly restrictive conditions on the replacement of the North Plaza Building at Seattle Central Community College. Section 816(1) mandates construction limits that should, in part, be determined as part of the design phase of the project. Sections 816(2) and (3) require cost tracking data and additional expenditure accounting that are beyond the typical reporting requirements for a project of this size. This level of reporting poses an unnecessary expense to the college.

Section 821(1), (2) and (3), Page 210, Community and Technical College System

These provisos would have placed overly restrictive requirements on the renovation of Building 7 at Tacoma Community College. Section 821(1) mandates construction limits that should, in part, be determined as part of the design phase of the project. Sections 821(2) and (3) require cost tracking data and additional expenditure accounting that are beyond the typical reporting requirements for a project of this size. This level of reporting poses an unnecessary expense to the college.

Section 907(4)(g), Page 218, Community and Technical College System

Section 907(4)(g) would have authorized South Puget Sound Community College to purchase approximately 25 acres of land for a permanent Hawks Prairie campus. This proposal assumes the financing of a new community college campus, a decision that should be based on an assessment of future needs as part of the comprehensive budget decision process.

In addition to vetoing the sections above, I am directing the Office of Financial Management to place in allotment reserve the Thurston County Capital Facilities Account appropriated to the Department of General Administration in Section 169, Page 33. The project management functions provided by the department for capital projects should be distributed equitably across fund sources for those projects. Appropriations for amounts in excess of the project management costs for capital projects in Thurston County are contrary to the express provisions of RCW 43.19.501. My intention is to hold the Thurston County Capital Facilities Account appropriation in allotment reserve and seek corrective appropriations in the first supplemental budget.

For these reasons, I have vetoed sections 103; 148(1); 156(1); 161, lines 4-13 and lines 16-17; 171, lines 24-32; 172(1); 172(2); 215(1); 227(2); 229(1); 229(2); 232(3); 273(5); 304(2); 352(2); 401; 429; 620; 783; 816(1); 816(2); 816(3); 821(1); 821(2); 821(3); and 907(4)(g) of Substitute Senate Bill No. 5401.

With the exception of sections 103; 148(1); 156(1); 161, lines 4-13 and lines 16-17; 171, lines 24-32; 172(1); 172(2); 215(1); 227(2); 229(1); 229(2); 232(3); 273(5); 304(2); 352(2); 401; 429; 620; 783; 816(1); 816(2); 816(3); 821(1); 821(2); 821(3); and 907(4)(g), Substitute Senate Bill No. 5401 is approved."

CHAPTER 27

[Substitute House Bill 2192]
PARIMUTUEL TAXATION

AN ACT Relating to parimutuel taxation; amending RCW 67.16.105; and providing an effective date.

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

Sec. 1. RCW 67.16.105 and 1998 c 345 s 6 are each amended to read as follows:

(1) Licensees of race meets that are nonprofit in nature and are of ten days or less shall be exempt from payment of a parimutuel tax.

(2) Licensees that do not fall under subsection (1) of this section shall withhold and pay to the commission daily for each authorized day of parimutuel wagering the following applicable percentage of all daily gross receipts from its in-state parimutuel machines:

(a) If the gross receipts of all its in-state parimutuel machines are more than fifty million dollars in the previous calendar year, the licensee shall withhold and pay to the commission daily 1.30 percent of the daily gross receipts; and

(b) If the gross receipts of all its in-state parimutuel machines are fifty million dollars or less in the previous calendar year, the licensee shall withhold and pay to the commission daily (~~(0.52)~~) 1.803 percent of the daily gross receipts.

(3) In addition to those amounts in subsection (2) of this section, a licensee shall forward one-tenth of one percent of the daily gross receipts of all its in-state parimutuel machines to the commission for payment to those nonprofit race meets as set forth in RCW 67.16.130 and subsection (1) of this section, but said percentage shall not be charged against the licensee. Payments to nonprofit race meets under this subsection shall be distributed on a pro rata per-race-day basis and used only for purses at race tracks that have been operating under RCW 67.16.130 and subsection (1) of this section for the five consecutive years immediately preceding the year of payment. The commission shall transfer funds generated under subsection (2) of this section equal to the difference between funds collected under this subsection (3) in a calendar year and three hundred thousand dollars, and distribute that amount under this subsection (3).

(4) Beginning July 1, 1999, at the conclusion of each authorized race meet, the commission shall calculate the mathematical average daily gross receipts of parimutuel wagering that is conducted only at the physical location of the live race meet at those race meets of licensees with gross receipts of all their in-state parimutuel machines of more than fifty million dollars. Such calculation shall include only the gross parimutuel receipts from wagering occurring on live racing dates, including live racing receipts and receipts derived from one simulcast race card that is conducted only at the physical location of the live racing meet, which, for the purposes of this subsection, is "the handle." If the calculation exceeds eight hundred eighty-six thousand dollars, the licensee shall within ten days of receipt of written notification by the commission forward to the commission a sum equal to the product obtained by multiplying 0.6 percent by the handle. Sums collected by the commission under this subsection shall be forwarded on the next business day following receipt thereof to the state treasurer to be deposited in the fair fund created in RCW 15.76.115.

NEW SECTION. Sec. 2. This act takes effect January 1, 2004.

Passed by the House June 4, 2003.

Passed by the Senate June 5, 2003.

Approved by the Governor June 26, 2003.

Filed in Office of Secretary of State June 26, 2003.

CHAPTER 28

[Engrossed Substitute House Bill 2257]

MEDICAL ASSISTANCE—TREATMENT OF INCOME

AN ACT Relating to the treatment of income and resources for institutionalized persons receiving medical assistance; amending RCW 74.09.575; providing an effective date; and declaring an emergency.

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

Sec. 1. RCW 74.09.575 and 1989 c 87 s 5 are each amended to read as follows:

(1) The department shall promulgate rules consistent with the treatment of resources provisions of section 1924 of the social security act entitled "Treatment of Income and Resources for Certain Institutionalized Spouses," in determining the allocation of resources between the institutionalized and community spouse.

(2) In the interest of supporting the community spouse the department shall allow the maximum resource allowance amount permissible under the social security act for the community spouse for persons institutionalized before August 1, 2003.

(3) For persons institutionalized on or after August 1, 2003, the department, in the interest of supporting the community spouse, shall allow up to a maximum of forty thousand dollars in resources for the community spouse. For the fiscal biennium beginning July 1, 2005, and each fiscal biennium thereafter, the maximum resource allowance amount for the community spouse shall be adjusted for economic trends and conditions by increasing the amount allowable by the consumer price index as published by the federal bureau of labor statistics. However, in no case shall the amount allowable exceed the maximum resource allowance permissible under the social security act.

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 takes effect July 1, 2003.

Passed by the House June 4, 2003.

Passed by the Senate June 5, 2003.

Approved by the Governor June 26, 2003.

Filed in Office of Secretary of State June 26, 2003.

CHAPTER 29

[Senate Bill 6088]

PRESCRIPTION DRUGS

AN ACT Relating to making prescription drugs more affordable to seniors, the disabled, and state health care programs; amending RCW 69.41.150 and 70.14.050; adding new sections to chapter 74.09 RCW; adding new sections to chapter 41.05 RCW; adding a new section to chapter 69.41 RCW; adding new sections to chapter 43.131 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 that prescription drugs are an effective and important part of efforts to maintain and improve the health of Washington state residents. However, their increased cost and utilization is

straining the resources of many state health care programs, and is particularly hard on low-income elderly people who lack insurance coverage for such drugs. Furthermore, inappropriate use of prescription drugs can result in unnecessary expenditures and lead to serious health consequences. It is therefore the intent of the legislature to support the establishment by the state of an evidence-based prescription drug program that identifies preferred drugs, develop programs to provide prescription drugs at an affordable price to those in need, and increase public awareness regarding their safe and cost-effective use.

NEW SECTION. Sec. 2. A new section is added to chapter 74.09 RCW to read as follows:

(1) To the extent funds are appropriated specifically for this purpose, and subject to any conditions placed on appropriations made for this purpose, the department shall design a medicaid prescription drug assistance program. Neither the benefits of, nor eligibility for, the program is considered to be an entitlement.

(2) The department shall request any federal waiver necessary to implement this program. Consistent with federal waiver conditions, the department may charge enrollment fees, premiums, or point-of-service cost-sharing to program enrollees.

(3) Eligibility for this program is limited to persons:

(a) Who are eligible for medicare or age sixty-five and older;

(b) Whose family income does not exceed two hundred percent of the federal poverty level as adjusted for family size and determined annually by the federal department of health and human services;

(c) Who lack insurance that provides prescription drug coverage; and

(d) Who are not otherwise eligible under Title XIX of the federal social security act.

(4) The department shall use a cost-effective prescription drug benefit design. Consistent with federal waiver conditions, this benefit design may be different than the benefit design offered under the medical assistance program. The benefit design may include a deductible benefit that provides coverage when enrollees incur higher prescription drug costs as defined by the department. The department also may offer more than one benefit design.

(5) The department shall limit enrollment of persons who qualify for the program so as to prevent an overexpenditure of appropriations for this program or to assure necessary compliance with federal waiver budget neutrality requirements. The department may not reduce existing medical assistance program eligibility or benefits to assure compliance with federal waiver budget neutrality requirements.

(6) Premiums paid by medicaid enrollees not in the medicaid prescription drug assistance program may not be used to finance the medicaid prescription drug assistance program.

(7) This program will be terminated within twelve months after implementation of a prescription drug benefit under Title XVIII of the federal social security act.

(8) The department shall provide recommendations to the appropriate committees of the senate and house of representatives by November 15, 2003, on financing options available to support the medicaid prescription drug

assistance program. In recommending financing options, the department shall explore every opportunity to maximize federal funding to support the program.

NEW SECTION. Sec. 3. A new section is added to chapter 41.05 RCW to read as follows:

(1) In negotiating price discounts with prescription drug manufacturers for state purchased health care programs, the health care authority shall also negotiate such discounts for any Washington resident:

(a) Whose family income does not exceed three hundred percent of the federal poverty level as adjusted for family size and determined annually by the federal department of health and human services;

(b) Whose existing prescription drug need is not covered by insurance; and

(c) Who is: (i) At least fifty years old; or (ii) between the ages of nineteen and forty-nine and is otherwise eligible for benefits under Title II of the social security act, federal old age, survivors, and disability insurance benefits.

(2)(a) An attestation, which shall be submitted to the administrator, from an individual that the individual's family income does not exceed three hundred percent of the federal poverty level is sufficient to satisfy the eligibility requirement of subsection (1)(a) of this section.

(b) Any person willfully making a false statement in order to qualify for discounts under this section is guilty of a misdemeanor. Notice of such shall be included on the program enrollment form.

(3) The administrator shall charge participants in this program an annual enrollment fee sufficient to offset the cost of program administration.

(4) Any rebate or discount provided by a pharmaceutical manufacturer and made available to individuals under this section shall not be at the expense of retail pharmacies. This does not prohibit participating state agencies from using discounted pharmacy reimbursements for services or ingredients provided by the pharmacies.

NEW SECTION. Sec. 4. A new section is added to chapter 41.05 RCW to read as follows:

The consolidated prescription drug purchasing account is created in the custody of the state treasurer. All fees collected under section 3(3) of this act shall be deposited into the account. Expenditures from the account may be used only for the purposes of section 3 of this act. Only the administrator or the administrator's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

NEW SECTION. Sec. 5. A new section is added to chapter 69.41 RCW to read as follows:

(1) Any pharmacist filling a prescription under a state purchased health care program as defined in RCW 41.05.011(2) shall substitute, where identified, a preferred drug for any nonpreferred drug in a given therapeutic class, unless the endorsing practitioner has indicated on the prescription that the nonpreferred drug must be dispensed as written, or the prescription is for a refill of an antipsychotic, antidepressant, chemotherapy, antiretroviral, or immunosuppressive drug, in which case the pharmacist shall dispense the prescribed nonpreferred drug.

(2) When a substitution is made under subsection (1) of this section, the dispensing pharmacist shall notify the prescribing practitioner of the specific drug and dose dispensed.

Sec. 6. RCW 69.41.150 and 1979 c 110 s 5 are each amended to read as follows:

(1) A practitioner who authorizes a prescribed drug shall not be liable for any side effects or adverse reactions caused by the manner or method by which a substituted drug product is selected or dispensed.

(2) A pharmacist who substitutes an equivalent drug product pursuant to RCW 69.41.100 through 69.41.180 as now or hereafter amended assumes no greater liability for selecting the dispensed drug product than would be incurred in filling a prescription for a drug product prescribed by its established name.

(3) A pharmacist who substitutes a preferred drug for a nonpreferred drug pursuant to section 5 of this act assumes no greater liability for substituting the preferred drug than would be incurred in filling a prescription for the preferred drug when prescribed by name.

NEW SECTION. Sec. 7. A new section is added to chapter 41.05 RCW to read as follows:

(1) The administrator shall establish and advertise a pharmacy connection program through which health care providers and members of the public can obtain information about manufacturer-sponsored prescription drug assistance programs. The administrator shall ensure that the program has staff available who can assist persons in procuring free or discounted medications from manufacturer-sponsored prescription drug assistance programs by:

(a) Determining whether an assistance program is offered for the needed drug or drugs;

(b) Evaluating the likelihood of a person obtaining drugs from an assistance program under the guidelines formulated;

(c) Assisting persons with the application and enrollment in an assistance program;

(d) Coordinating and assisting physicians and others authorized to prescribe medications with communications, including applications, made on behalf of a person to a participating manufacturer to obtain approval of the person in an assistance program; and

(e) Working with participating manufacturers to simplify the system whereby eligible persons access drug assistance programs, including development of a single application form and uniform enrollment process.

(2) Notice regarding the pharmacy connection program shall initially target senior citizens, but the program shall be available to anyone, and shall include a toll-free telephone number, available during regular business hours, that may be used to obtain information.

(3) The administrator may apply for and accept grants or gifts and may enter into interagency agreements or contracts with other state agencies or private organizations to assist with the implementation of this program including, but not limited to, contracts, gifts, or grants from pharmaceutical manufacturers to assist with the direct costs of the program.

(4) The administrator shall notify pharmaceutical companies doing business in Washington of the pharmacy connection program. Any pharmaceutical company that does business in this state and that offers a pharmaceutical

assistance program shall notify the administrator of the existence of the program, the drugs covered by the program, and all information necessary to apply for assistance under the program.

(5) For purposes of this section, "manufacturer-sponsored prescription drug assistance program" means a program offered by a pharmaceutical company through which the company provides a drug or drugs to eligible persons at no charge or at a reduced cost. The term does not include the provision of a drug as part of a clinical trial.

NEW SECTION. Sec. 8. A new section is added to chapter 74.09 RCW to read as follows:

Each of the state's area agencies on aging shall implement a program intended to inform and train persons sixty-five years of age and older in the safe and appropriate use of prescription and nonprescription medications. To further this purpose, the department shall award development grants averaging up to twenty-five thousand dollars to each of the agencies upon a showing that:

(1) The agency has the ability to effectively administer such a program, including an understanding of the relevant issues and appropriate outreach and follow-up;

(2) The agency can bring resources to the program in addition to those funded by the grant; and

(3) The program will be a collaborative effort between the agency and other health care programs and providers in the location to be served, including doctors, pharmacists, and long-term care providers.

Sec. 9. RCW 70.14.050 and 1986 c 303 s 10 are each amended to read as follows:

(1) Each agency (~~(listed in RCW 70.14.010)~~) administering a state purchased health care program as defined in RCW 41.05.011(2) shall ~~((individually or))~~, in cooperation with other agencies, take any necessary actions to control costs without reducing the quality of care when reimbursing for or purchasing drugs. To accomplish this purpose, ~~((each agency shall investigate the feasibility of and))~~ participating agencies may establish ~~((a))~~ evidence-based prescription drug ~~((formulary designating which drugs may be paid for through their health care programs. For purposes of this section, a drug formulary means a list of drugs, either inclusive or exclusive, that defines which drugs are eligible for reimbursement by the agency))~~ program.

(2) In developing the evidence-based prescription drug ~~((formulary))~~ program authorized by this section, agencies:

(a) Shall prohibit reimbursement for drugs that are determined to be ineffective by the United States food and drug administration;

(b) Shall adopt rules in order to ensure that less expensive generic drugs will be substituted for brand name drugs in those instances where the quality of care is not diminished;

(c) Where possible, may authorize reimbursement for drugs only in economical quantities;

(d) May limit the prices paid for drugs by such means as negotiated discounts from pharmaceutical manufacturers, central purchasing, volume contracting, or setting maximum prices to be paid;

(e) Shall consider the approval of drugs with lower abuse potential in substitution for drugs with significant abuse potential; ~~((and))~~

(f) May take other necessary measures to control costs of drugs without reducing the quality of care; and

(g) Shall adopt rules governing practitioner endorsement and use of any list developed as part of the program authorized by this section.

(3) Agencies ~~((may))~~ shall provide for reasonable exceptions, consistent with section 5 of this act, to ~~((the drug formulary required))~~ any list developed as part of the program authorized by this section.

(4) Agencies ~~((may))~~ shall establish ~~((medical advisory committees, or utilize committees already established, to assist))~~ an independent pharmacy and therapeutics committee to evaluate the effectiveness of prescription drugs in the development of the ~~((drug formulary required))~~ program authorized by this section.

NEW SECTION. Sec. 10. A new section is added to chapter 41.05 RCW to read as follows:

The authority may adopt rules to implement this act.

NEW SECTION. Sec. 11. By January 1, 2005, the administrator of the health care authority and the secretary of the department of social and health services shall submit to the governor and the legislature a progress report regarding the implementation of the programs created in this act.

NEW SECTION. Sec. 12. A new section is added to chapter 43.131 RCW to read as follows:

The discount program under section 3 of this act shall be terminated June 30, 2010, as provided in section 13 of this act.

NEW SECTION. Sec. 13. A new section is added to chapter 43.131 RCW to read as follows:

Section 3 of this act, as now existing or hereafter amended, is repealed effective June 30, 2011.

NEW SECTION. Sec. 14. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 15. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state.

NEW SECTION. Sec. 16. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the Senate June 5, 2003.

Passed by the House June 5, 2003.

Approved by the Governor June 26, 2003.

Filed in Office of Secretary of State June 26, 2003.

WASHINGTON LAWS

2003 2ND SPECIAL SESSION

2003 2ND SPECIAL SESSION

WASHINGTON LAWS

2003 SECOND SPECIAL SESSION

CHAPTER 1

[House Bill 2294]

AEROSPACE INDUSTRY—TAX INCENTIVES

AN ACT Relating to retaining and attracting the aerospace industry to Washington state; amending RCW 82.04.260, 82.04.260, 82.04.270, and 82.04.440; reenacting and amending RCW 82.04.250; adding new sections to chapter 82.04 RCW; adding new sections to chapter 82.08 RCW; adding new sections to chapter 82.12 RCW; adding a new section to chapter 82.29A RCW; adding a new section to chapter 84.36 RCW; adding a new section to chapter 82.32 RCW; creating a new section; providing a contingent effective date; and providing expiration dates.

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

NEW SECTION. Sec. 1. The legislature finds that the people of the state have benefited from the presence of the aerospace industry in Washington state. The aerospace industry provides good wages and benefits for the thousands of engineers, mechanics, and support staff working directly in the industry throughout the state. The suppliers and vendors that support the aerospace industry in turn provide a range of jobs. The legislature declares that it is in the public interest to encourage the continued presence of this industry through the provision of tax incentives. The comprehensive tax incentives in this act address the cost of doing business in Washington state compared to locations in other states.

Sec. 2. RCW 82.04.250 and 1998 c 343 s 5 and 1998 c 312 s 4 are each reenacted and amended to read as follows:

(1) Upon every person except persons taxable under RCW 82.04.260 (5) or (13), 82.04.272, or subsection (2) of this section engaging within this state in the business of making sales at retail, as to such persons, the amount of tax with respect to such business shall be equal to the gross proceeds of sales of the business, multiplied by the rate of 0.471 percent.

(2) Upon every person engaging within this state in the business of making sales at retail that are exempt from the tax imposed under chapter 82.08 RCW by reason of RCW 82.08.0261, 82.08.0262, or 82.08.0263, except persons taxable under RCW 82.04.260(13), as to such persons, the amount of tax with respect to such business shall be equal to the gross proceeds of sales of the business, multiplied by the rate of 0.484 percent.

Sec. 3. RCW 82.04.260 and 2003 c 261 (2SHB 1240) s 11 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of manufacturing:

(a) Wheat into flour, barley into pearl barley, soybeans into soybean oil, canola into canola oil, canola meal, or canola byproducts, 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, oil, canola meal, or canola byproduct manufactured, multiplied by the rate of 0.138 percent;

(b) 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 0.138 percent;

(c) By canning, preserving, freezing, processing, or dehydrating fresh fruits and vegetables, or selling at wholesale fresh fruits and vegetables canned,

preserved, frozen, processed, or dehydrated by the seller and sold to purchasers who transport in the ordinary course of business the goods out of this state; 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, processed, or dehydrated multiplied by the rate of 0.138 percent. As proof of sale to a person who transports in the ordinary course of business goods out of this state, the seller shall annually provide a statement in a form prescribed by the department and retain the statement as a business record;

(d) Dairy products that as of September 20, 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135, including byproducts from the manufacturing of the dairy products such as whey and casein; or selling the same to purchasers who transport in the ordinary course of business the goods out of state; as to such persons the tax imposed shall be equal to the value of the products manufactured multiplied by the rate of 0.138 percent. As proof of sale to a person who transports in the ordinary course of business goods out of this state, the seller shall annually provide a statement in a form prescribed by the department and retain the statement as a business record; and

(e) Alcohol fuel, biodiesel fuel, or biodiesel feedstock, as those terms are defined in RCW 82.29A.135; as to such persons the amount of tax with respect to the business shall be equal to the value of alcohol fuel, biodiesel fuel, or biodiesel feedstock manufactured, multiplied by the rate of 0.138 percent. This subsection (1)(e) expires July 1, 2009.

(2) 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 0.138 percent.

(3) 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 0.484 percent.

(4) 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 0.138 percent.

(5) 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 0.275 percent.

(6) 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 0.275 percent.

(7) Upon every person engaging within this state in the business of acting as a travel agent or tour operator; 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 0.275 percent.

(8) 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 0.275 percent.

(9) 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 0.275 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.

(10) 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 3.3 percent.

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.

(11) 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 0.484 percent.

(12) Upon every person engaging within this state in business as a hospital, as defined in chapter 70.41 RCW, that is operated as a nonprofit corporation or by the state or any of its political subdivisions, as to such persons, the amount of tax with respect to such activities shall be equal to the gross income of the

business multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5 percent thereafter. The moneys collected under this subsection shall be deposited in the health services account created under RCW 43.72.900.

(13)(a) Beginning October 1, 2005, upon every person engaging within this state in the business of manufacturing commercial airplanes, or components of such airplanes, as to such persons the amount of tax with respect to such business shall, in the case of manufacturers, be equal to the value of the product manufactured, or in the case of processors for hire, be equal to the gross income of the business, multiplied by the rate of:

(i) 0.4235 percent from October 1, 2005, through the later of June 30, 2007, or the day preceding the date final assembly of a superefficient airplane begins in Washington state, as determined under section 17 of this act; and

(ii) 0.2904 percent beginning on the later of July 1, 2007, or the date final assembly of a superefficient airplane begins in Washington state, as determined under section 17 of this act.

(h) Beginning October 1, 2005, upon every person engaging within this state in the business of making sales, at retail or wholesale, of commercial airplanes, or components of such airplanes, 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 airplanes or components multiplied by the rate of:

(i) 0.4235 percent from October 1, 2005, through the later of June 30, 2007, or the day preceding the date final assembly of a superefficient airplane begins in Washington state, as determined under section 17 of this act; and

(ii) 0.2904 percent beginning on the later of July 1, 2007, or the date final assembly of a superefficient airplane begins in Washington state, as determined under section 17 of this act.

(c) For the purposes of this subsection (13), "commercial airplane," "component," and "final assembly of a superefficient airplane" have the meanings given in section 17 of this act.

(d) In addition to all other requirements under this title, a person eligible for the tax rate under this subsection (13) must report as required under section 16 of this act.

(e) This subsection (13) does not apply after the earlier of: July 1, 2024; or December 31, 2007, if assembly of a superefficient airplane does not begin by December 31, 2007, as determined under section 17 of this act.

Sec. 4. RCW 82.04.260 and 2003 c 339 (EHB 2146) s 11 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of manufacturing:

(a) Wheat into flour, barley into pearl barley, soybeans into soybean oil, canola into canola oil, canola meal, or canola byproducts, 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, oil, canola meal, or canola byproduct manufactured, multiplied by the rate of 0.138 percent;

(b) 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 0.138 percent;

(c) By canning, preserving, freezing, processing, or dehydrating fresh fruits and vegetables, or selling at wholesale fresh fruits and vegetables canned, preserved, frozen, processed, or dehydrated by the seller and sold to purchasers who transport in the ordinary course of business the goods out of this state; 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, processed, or dehydrated multiplied by the rate of 0.138 percent. As proof of sale to a person who transports in the ordinary course of business goods out of this state, the seller shall annually provide a statement in a form prescribed by the department and retain the statement as a business record;

(d) Dairy products that as of September 20, 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135, including byproducts from the manufacturing of the dairy products such as whey and casein; or selling the same to purchasers who transport in the ordinary course of business the goods out of state; as to such persons the tax imposed shall be equal to the value of the products manufactured multiplied by the rate of 0.138 percent. As proof of sale to a person who transports in the ordinary course of business goods out of this state, the seller shall annually provide a statement in a form prescribed by the department and retain the statement as a business record; and

(e) Alcohol fuel or wood biomass fuel, as those terms are defined in RCW 82.29A.135; as to such persons the amount of tax with respect to the business shall be equal to the value of alcohol fuel or wood biomass fuel manufactured, multiplied by the rate of 0.138 percent.

(2) 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 0.138 percent.

(3) 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 0.484 percent.

(4) 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 0.138 percent.

(5) 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 0.275 percent.

(6) 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 0.275 percent.

(7) Upon every person engaging within this state in the business of acting as a travel agent or tour operator; 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 0.275 percent.

(8) 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 0.275 percent.

(9) 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 0.275 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.

(10) 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 3.3 percent.

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.

(11) 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 0.484 percent.

(12) Upon every person engaging within this state in business as a hospital, as defined in chapter 70.41 RCW, that is operated as a nonprofit corporation or

by the state or any of its political subdivisions, as to such persons, the amount of tax with respect to such activities shall be equal to the gross income of the business multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5 percent thereafter. The moneys collected under this subsection shall be deposited in the health services account created under RCW 43.72.900.

(13)(a) Beginning October 1, 2005, upon every person engaging within this state in the business of manufacturing commercial airplanes, or components of such airplanes, as to such persons the amount of tax with respect to such business shall, in the case of manufacturers, be equal to the value of the product manufactured, or in the case of processors for hire, be equal to the gross income of the business, multiplied by the rate of:

(i) 0.4235 percent from October 1, 2005, through the later of June 30, 2007, or the day preceding the date final assembly of a superefficient airplane begins in Washington state, as determined under section 17 of this act; and

(ii) 0.2904 percent beginning on the later of July 1, 2007, or the date final assembly of a superefficient airplane begins in Washington state, as determined under section 17 of this act.

(b) Beginning October 1, 2005, upon every person engaging within this state in the business of making sales, at retail or wholesale, of commercial airplanes, or components of such airplanes, 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 airplanes or components multiplied by the rate of:

(i) 0.4235 percent from October 1, 2005, through the later of June 30, 2007, or the day preceding the date final assembly of a superefficient airplane begins in Washington state, as determined under section 17 of this act; and

(ii) 0.2904 percent beginning on the later of July 1, 2007, or the date final assembly of a superefficient airplane begins in Washington state, as determined under section 17 of this act.

(c) For the purposes of this subsection (13), "commercial airplane," "component," and "final assembly of a superefficient airplane" have the meanings given in section 17 of this act.

(d) In addition to all other requirements under this title, a person eligible for the tax rate under this subsection (13) must report as required under section 16 of this act.

(e) This subsection (13) does not apply after the earlier of: July 1, 2024; or December 31, 2007, if assembly of a superefficient airplane does not begin by December 31, 2007, as determined under section 17 of this act.

Sec. 5. RCW 82.04.270 and 2001 1st sp.s. c 9 s 3 are each amended to read as follows:

Upon every person except persons taxable under RCW 82.04.260 (5) or (13), 82.04.298, or 82.04.272 engaging within this state in the business of making sales at wholesale; as to such persons the amount of tax with respect to such business shall be equal to the gross proceeds of sales of such business multiplied by the rate of 0.484 percent.

Sec. 6. RCW 82.04.440 and 1998 c 312 s 9 are each amended to read as follows:

(1) Every person engaged in activities which are within the purview of the provisions of two or more of sections RCW 82.04.230 to 82.04.290, inclusive, shall be taxable under each paragraph applicable to the activities engaged in.

(2) Persons taxable under RCW 82.04.250, 82.04.270, or 82.04.260 (4) ~~or (13)~~ with respect to selling products in this state shall be allowed a credit against those taxes for any (a) manufacturing taxes paid with respect to the manufacturing of products so sold in this state, and/or (b) extracting taxes paid with respect to the extracting of products so sold in this state or ingredients of products so sold in this state. Extracting taxes taken as credit under subsection (3) of this section may also be taken under this subsection, if otherwise allowable under this subsection. The amount of the credit shall not exceed the tax liability arising under this chapter with respect to the sale of those products.

(3) Persons taxable under RCW 82.04.240 or 82.04.260(1)(b) shall be allowed a credit against those taxes for any extracting taxes paid with respect to extracting the ingredients of the products so manufactured in this state. The amount of the credit shall not exceed the tax liability arising under this chapter with respect to the manufacturing of those products.

(4) Persons taxable under RCW 82.04.230, 82.04.240, or 82.04.260 (1), (2), (4), ~~((or))~~ (6), ~~or (13)~~ with respect to extracting or manufacturing products in this state shall be allowed a credit against those taxes for any (i) gross receipts taxes paid to another state with respect to the sales of the products so extracted or manufactured in this state, (ii) manufacturing taxes paid with respect to the manufacturing of products using ingredients so extracted in this state, or (iii) manufacturing taxes paid with respect to manufacturing activities completed in another state for products so manufactured in this state. The amount of the credit shall not exceed the tax liability arising under this chapter with respect to the extraction or manufacturing of those products.

(5) For the purpose of this section:

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

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

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

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

(c) "Manufacturing tax" means a gross receipts tax imposed on the act or privilege of engaging in business as a manufacturer, and includes (i) the taxes imposed in RCW 82.04.240 and 82.04.260 (1), (2), ~~((and))~~ (4), ~~and (13)~~, and (ii) similar gross receipts taxes paid to other states.

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

(e) "Business", "manufacturer", "extractor", and other terms used in this section have the meanings given in RCW 82.04.020 through 82.04.212,

notwithstanding the use of those terms in the context of describing taxes imposed by other states.

NEW SECTION. Sec. 7. A new section is added to chapter 82.04 RCW to read as follows:

(1)(a) In computing the tax imposed under this chapter, a credit is allowed for each person for preproduction development spending occurring after the effective date of this act.

(b) Before July 1, 2005, any credits earned under this section must be accrued and carried forward and may not be used until July 1, 2005. These carryover credits may be used at any time thereafter, and may be carried over until used. Refunds may not be granted in the place of a credit.

(2) The credit is equal to the amount of qualified preproduction development expenditures of a person, multiplied by the rate of 1.5 percent.

(3) Except as provided in subsection (1)(b) of this section the credit shall be taken against taxes due for the same calendar year in which the qualified preproduction development expenditures are incurred. Credit earned on or after July 1, 2005, may not be carried over. The credit for each calendar year shall not exceed the amount of tax otherwise due under this chapter for the calendar year. Refunds may not be granted in the place of a credit.

(4) Any person claiming the credit shall file an affidavit form prescribed by the department that shall include the amount of the credit claimed, an estimate of the anticipated preproduction development expenditures during the calendar year for which the credit is claimed, an estimate of the taxable amount during the calendar year for which the credit is claimed, and such additional information as the department may prescribe.

(5) The definitions in this subsection apply throughout this section.

(a) "Aeronautics" means the study of flight and the science of building and operating commercial aircraft.

(b) "Person" means a person as defined in RCW 82.04.030, who is a manufacturer or processor for hire of commercial airplanes, or components of such airplanes, as those terms are defined in section 17 of this act.

(c) "Preproduction development" means research, design, and engineering activities performed in relation to the development of a product, product line, model, or model derivative, including prototype development, testing, and certification. The term includes the discovery of technological information, the translating of technological information into new or improved products, processes, techniques, formulas, or inventions, and the adaptation of existing products and models into new products or new models, or derivatives of products or models. The term does not include manufacturing activities or other production-oriented activities, however the term does include tool design and engineering design for the manufacturing process. The term does not include surveys and studies, social science and humanities research, market research or testing, quality control, sale promotion and service, computer software developed for internal use, and research in areas such as improved style, taste, and seasonal design.

(d) "Preproduction development spending" means qualified preproduction development expenditures plus eighty percent of amounts paid to a person other than a public educational or research institution to conduct qualified preproduction development.

(e) "Qualified preproduction development" means preproduction development performed within this state in the field of aeronautics.

(f) "Qualified preproduction development expenditures" means operating expenses, including wages, compensation of a proprietor or a partner in a partnership as determined by the department, benefits, supplies, and computer expenses, directly incurred in qualified preproduction development by a person claiming the credit provided in this section. The term does not include amounts paid to a person other than a public educational or research institution to conduct qualified preproduction development. The term does not include capital costs and overhead, such as expenses for land, structures, or depreciable property.

(g) "Taxable amount" means the taxable amount subject to the tax imposed in this chapter required to be reported on the person's tax returns during the year in which the credit is claimed, less any taxable amount for which a credit is allowed under RCW 82.04.440.

(6) In addition to all other requirements under this title, a person taking the credit under this section must report as required under section 16 of this act.

(7) Credit may not be claimed for expenditures for which a credit is claimed under RCW 82.04.4452.

(8) This section expires July 1, 2024.

NEW SECTION. Sec. 8. A new section is added to chapter 82.04 RCW to read as follows:

(1) In computing the tax imposed under this chapter, a credit is allowed for the investment related to design and preproduction development computer software and hardware acquired between July 1, 1995, and the effective date of this act, and used by an eligible person primarily for the digital design and development of commercial airplanes. The credit shall be equal to the purchase price of such property, multiplied by 8.44 percent. Credit taken in any one calendar year may not exceed ten million dollars, and total lifetime credit taken under this section by any one person may not exceed twenty million dollars. Credit may be carried over until used.

(2) The definitions in this subsection apply throughout this section.

(a) "Commercial airplane" has the meaning given in section 17 of this act.

(b) "Design and preproduction development computer software and hardware" means computer-aided three-dimensional interactive applications and other solid modeling computer technology that allow for electronic design and testing during product development.

(c) "Eligible person" means a person as defined in RCW 82.04.030, who is a manufacturer of commercial airplanes.

(3) An application must be made to the department before taking the credit under this section. The application shall be made to the department in a form and manner prescribed by the department. The application shall contain information regarding the uses of the computer software and hardware, purchase price, dates of acquisition, and other information required by the department. The department shall rule on the application within sixty days. All applications must be received by the department within one year of the effective date of this act.

(4) This section expires July 1, 2024.

NEW SECTION. Sec. 9. A new section is added to chapter 82.08 RCW to read as follows:

(1) The tax levied by RCW 82.08.020 shall not apply to sales of computer hardware, computer peripherals, or software, not otherwise eligible for exemption under RCW 82.08.02565, to a manufacturer or processor for hire of commercial airplanes or components of such airplanes, used primarily in the development, design, and engineering of such products, or to sales of or charges made for labor and services rendered in respect to installing the computer hardware, computer peripherals, or software. The exemption is available only when the buyer provides the seller with an exemption certificate in a form and manner prescribed by the department. The seller shall retain a copy of the certificate for the seller's files.

(2) As used in this section, "commercial airplane" and "component" have the meanings given in section 17 of this act. "Peripherals" includes keyboards, monitors, mouse devices, and other accessories that operate outside of the computer, excluding cables, conduit, wiring, and other similar property.

(3) This section expires July 1, 2024.

NEW SECTION. Sec. 10. A new section is added to chapter 82.12 RCW to read as follows:

(1) The provisions of this chapter shall not apply in respect to the use of computer hardware, computer peripherals, or software, not otherwise eligible for exemption under RCW 82.12.02565, by a manufacturer or processor for hire of commercial airplanes or components of such airplanes, used primarily in the development, design, and engineering of such products, or to the use of labor and services rendered in respect to installing the computer hardware, computer peripherals, or software.

(2) As used in this section, "commercial airplane" and "component" have the meanings given in section 17 of this act. "Peripherals" includes keyboards, monitors, mouse devices, and other accessories that operate outside of the computer, excluding cables, conduit, wiring, and other similar property.

(3) This section expires July 1, 2024.

NEW SECTION. Sec. 11. A new section is added to chapter 82.08 RCW to read as follows:

(1) The tax levied by RCW 82.08.020 shall not apply to charges made for labor and services rendered in respect to the constructing of new buildings by a manufacturer engaged in the manufacturing of superefficient airplanes or by a port district, to be leased to a manufacturer engaged in the manufacturing of superefficient airplanes, to sales of tangible personal property that will be incorporated as an ingredient or component of such buildings during the course of the constructing, or to labor and services rendered in respect to installing, during the course of constructing, building fixtures not otherwise eligible for the exemption under RCW 82.08.02565(2)(b). The exemption is available only when the buyer provides the seller with an exemption certificate in a form and manner prescribed by the department. The seller shall retain a copy of the certificate for the seller's files.

(2) No application is necessary for the tax exemption in this section, however in order to qualify under this section before starting construction the port district must have entered into an agreement with the manufacturer to build

such a facility. A person taking the exemption under this section is subject to all the requirements of chapter 82.32 RCW. In addition, the person must report as required under section 16 of this act.

(3) The exemption in this section applies to buildings, or parts of buildings, that are used exclusively in the manufacturing of superefficient airplanes, including buildings used for the storage of raw materials and finished product.

(4) For the purposes of this section, "superefficient airplane" has the meaning given in section 17 of this act.

(5) This section expires July 1, 2024.

NEW SECTION. Sec. 12. A new section is added to chapter 82.12 RCW to read as follows:

(1) The provisions of this chapter do not apply with respect to the use of tangible personal property that will be incorporated as an ingredient or component of new buildings by a manufacturer engaged in the manufacturing of superefficient airplanes or owned by a port district and to be leased to a manufacturer engaged in the manufacturing of superefficient airplanes, during the course of constructing such buildings, or to labor and services rendered in respect to installing, during the course of constructing, building fixtures not otherwise eligible for the exemption under RCW 82.08.02565(2)(b).

(2) The eligibility requirements, conditions, and definitions in section 11 of this act apply to this section.

(3) This section expires July 1, 2024.

NEW SECTION. Sec. 13. A new section is added to chapter 82.29A RCW to read as follows:

(1) All leasehold interests in port district facilities exempt from tax under section 11 or 12 of this act and used by a manufacturer engaged in the manufacturing of superefficient airplanes, as defined in section 17 of this act, are exempt from tax under this chapter. A person taking the credit under section 15 of this act is not eligible for the exemption under this section.

(2) In addition to all other requirements under this title, a person taking the exemption under this section must report as required under section 16 of this act.

(3) This section expires July 1, 2024.

NEW SECTION. Sec. 14. A new section is added to chapter 84.36 RCW to read as follows:

(1) Effective January 1, 2005, all buildings, machinery, equipment, and other personal property of a lessee of a port district eligible under sections 11 and 12 of this act, used exclusively in manufacturing superefficient airplanes, are exempt from property taxation. A person taking the credit under section 15 of this act is not eligible for the exemption under this section. For the purposes of this section, "superefficient airplane" and "component" have the meanings given in section 17 of this act.

(2) In addition to all other requirements under this title, a person taking the exemption under this section must report as required under section 16 of this act.

(3) Claims for exemption authorized by this section shall be filed with the county assessor on forms prescribed by the department and furnished by the assessor. The assessor shall verify and approve claims as the assessor determines to be justified and in accordance with this section. No claims may be filed after December 31, 2023. The department may adopt rules, under the

provisions of chapter 34.05 RCW, as necessary to properly administer this section.

(4) This section applies to taxes levied for collection in 2006 and thereafter.

(5) This section expires July 1, 2024.

NEW SECTION. Sec. 15. A new section is added to chapter 82.04 RCW to read as follows:

(1) In computing the tax imposed under this chapter, a credit is allowed for property taxes paid during the calendar year.

(2) The credit is equal to:

(a)(i) Property taxes paid on new buildings, and land upon which this property is located, built after the effective date of this act, and used in manufacturing commercial airplanes or components of such airplanes; or

(ii) Property taxes attributable to an increase in assessed value due to the renovation or expansion, after the effective date of this act, of a building used in manufacturing commercial airplanes or components of such airplanes; and

(b) Property taxes paid on machinery and equipment exempt under RCW 82.08.02565 or 82.12.02565 used in manufacturing commercial airplanes or components of such airplanes and acquired after the effective date of this act.

(3) For the purposes of this section, "commercial passenger airplane" and "component" have the meanings given in section 17 of this act.

(4) A person taking the credit under this section is subject to all the requirements of chapter 82.32 RCW. In addition, the person must report as required under section 16 of this act. A credit earned during one calendar year may be carried over to be credited against taxes incurred in a subsequent calendar year, but may not be carried over a second year. No refunds may be granted for credits under this section.

(5) In addition to all other requirements under this title, a person taking the credit under this section must report as required under section 16 of this act.

(6) This section expires July 1, 2024.

NEW SECTION. Sec. 16. A new section is added to chapter 82.32 RCW to read as follows:

(1) The legislature finds that accountability and effectiveness are important aspects of setting tax policy. In order to make policy choices regarding the best use of limited state resources the legislature needs information on how a tax incentive is used.

(2)(a) A person who reports taxes under RCW 82.04.260(13) or who claims an exemption or credit under sections 7 and 11 through 15 of this act shall make an annual report to the department detailing employment, wages, and employer-provided health and retirement benefits per job at the manufacturing site. The report shall not include names of employees. The report shall also detail employment by the total number of full-time, part-time, and temporary positions. The first report filed under this subsection shall include employment, wage, and benefit information for the twelve-month period immediately before first use of a preferential tax rate under RCW 82.04.260(13), or tax exemption or credit under sections 7 and 11 through 15 of this act. The report is due by March 31st following any year in which a preferential tax rate under RCW 82.04.260(13) is used, or tax exemption or credit under sections 7 and 11 through 15 of this act is taken. This information is not subject to the

confidentiality provisions of RCW 82.32.330 and may be disclosed to the public upon request.

(b) If a person fails to submit an annual report under (a) of this subsection by the due date of the report, the department shall declare the amount of taxes exempted or credited, or reduced in the case of the preferential business and occupation tax rate, for that year to be immediately due and payable. Excise taxes payable under this subsection are subject to interest but not penalties, as provided under this chapter. This information is not subject to the confidentiality provisions of RCW 82.32.330 and may be disclosed to the public upon request.

(3) By November 1, 2010, and by November 1, 2023, the fiscal committees of the house of representatives and the senate, in consultation with the department, shall report to the legislature on the effectiveness of chapter . . . , Laws of 2003 1st sp. sess. (this act) in regard to keeping Washington competitive. The report shall measure the effect of chapter . . . , Laws of 2003 1st sp. sess. (this act) on job retention, net jobs created for Washington residents, company growth, diversification of the state's economy, cluster dynamics, and other factors as the committees select. The reports shall include a discussion of principles to apply in evaluating whether the legislature should reenact any or all of the tax preferences in chapter . . . , Laws of 2003 1st sp. sess. (this act).

NEW SECTION. **Sec. 17.** A new section is added to chapter 82.32 RCW to read as follows:

(1)(a) Chapter . . . , Laws of 2003 1st sp. sess. (this act) takes effect on the first day of the month in which the governor and a manufacturer of commercial airplanes sign a memorandum of agreement regarding an affirmative final decision to site a significant commercial airplane final assembly facility in Washington state. The department shall provide notice of the effective date of chapter . . . , Laws of 2003 1st sp. sess. (this act) to affected taxpayers, the legislature, and others as deemed appropriate by the department.

(b) Chapter . . . , Laws of 2003 1st sp. sess. (this act) is contingent upon the siting of a significant commercial airplane final assembly facility in the state of Washington. If a memorandum of agreement under subsection (1) of this section is not signed by June 30, 2005, chapter . . . , Laws of 2003 1st sp. sess. (this act) is null and void.

(c)(i) The department shall make a determination regarding the date final assembly of a superefficient airplane begins in Washington state. The rates in RCW 82.04.260(13)(a)(ii) and (b)(ii) take effect the first day of the month such assembly begins, or July 1, 2007, whichever is later. The department shall provide notice of the effective date of such rates to affected taxpayers, the legislature, and others as deemed appropriate by the department.

(ii) If on December 31, 2007, final assembly of a superefficient airplane has not begun in Washington state, the department shall provide notice of such to affected taxpayers, the legislature, and others as deemed appropriate by the department.

(2) The definitions in this subsection apply throughout this section.

(a) "Commercial airplane" has its ordinary meaning, which is an airplane certified by the federal aviation administration for transporting persons or property, and any military derivative of such an airplane.

(b) "Component" means a part or system certified by the federal aviation administration for installation or assembly into a commercial airplane.

(c) "Final assembly of a superefficient airplane" means the activity of assembling an airplane from components parts necessary for its mechanical operation such that the finished commercial airplane is ready to deliver to the ultimate consumer.

(d) "Significant commercial airplane final assembly facility" means a location with the capacity to produce at least thirty-six superefficient airplanes a year.

(e) "Siting" means a final decision by a manufacturer to locate a significant commercial airplane final assembly facility in Washington state.

(f) "Superefficient airplane" means a twin aisle airplane that carries between two hundred and three hundred fifty passengers, with a range of more than seven thousand two hundred nautical miles, a cruising speed of approximately mach .85, and that uses fifteen to twenty percent less fuel than other similar airplanes on the market.

Passed by the House June 11, 2003.

Passed by the Senate June 11, 2003.

Approved by the Governor June 18, 2003.

Filed in Office of Secretary of State June 18, 2003.

CHAPTER 2

[Senate Bill 5271]

OCCUPATIONAL HEARING LOSS

AN ACT Relating to claims for hearing loss due to occupational noise exposure; and amending RCW 51.28.055.

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

Sec. 1. RCW 51.28.055 and 1984 c 159 s 2 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section for claims filed for occupational hearing loss, claims for occupational disease or infection to be valid and compensable must be filed within two years following the date the worker had written notice from a physician: ((+)) (a) Of the existence of his or her occupational disease, and ((2)) (b) that a claim for disability benefits may be filed. The notice shall also contain a statement that the worker has two years from the date of the notice to file a claim. The physician shall file the notice with the department. The department shall send a copy to the worker and to the self-insurer if the worker's employer is self-insured. However, a claim is valid if it is filed within two years from the date of death of the worker suffering from an occupational disease.

(2)(a) Except as provided in (b) of this subsection, to be valid and compensable, claims for hearing loss due to occupational noise exposure must be filed within two years of the date of the worker's last injurious exposure to occupational noise in employment covered under this title or within one year of the effective date of this section, whichever is later.

(b) A claim for hearing loss due to occupational noise exposure that is not timely filed under (a) of this subsection can only be allowed for medical aid benefits under chapter 51.36 RCW.

(3) The department may adopt rules to implement this section.

Passed by the Senate June 11, 2003.

Passed by the House June 11, 2003.

Approved by the Governor June 20, 2003.

Filed in Office of Secretary of State June 20, 2003.

CHAPTER 3

[Senate Bill 6099]

UNEMPLOYMENT INSURANCE—APPROPRIATIONS

AN ACT Relating to making appropriations for the payment of expenses related to the implementation of 2ESB 6097; and making appropriations.

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

NEW SECTION. Sec. 1. The sum of eleven million five hundred thousand dollars, or as much thereof as may be necessary, is appropriated for the biennium ending June 30, 2005, from the money credited to the account of this state in the unemployment trust fund pursuant to section 903 of the social security act, as amended, to the employment security department for the payment of expenses of administration related to the implementation of 2ESB 6097.

Passed by the Senate June 11, 2003.

Passed by the House June 11, 2003.

Approved by the Governor June 20, 2003.

Filed in Office of Secretary of State June 20, 2003.

CHAPTER 4

[Second Engrossed Senate Bill 6097]

UNEMPLOYMENT COMPENSATION—SYSTEM REVISED

AN ACT Relating to revising the unemployment compensation system through creating forty rate classes for determining employer contribution rates; amending RCW 50.01.010, 50.20.010, 50.20.050, 50.04.293, 50.20.060, 50.20.065, 50.20.240, 50.20.120, 50.20.100, 50.29.025, 50.04.355, 50.29.026, 50.29.062, 50.29.070, 50.12.220, 50.16.010, 50.16.015, 50.24.014, 50.20.190, 50.04.206, 50.20.140, 50.20.043, 50.20.160, 50.32.040, and 28B.50.030; reenacting and amending RCW 50.29.020; adding new sections to chapter 50.04 RCW; adding new sections to chapter 50.20 RCW; adding new sections to chapter 50.29 RCW; creating new sections; repealing RCW 50.20.015, 50.20.045, 50.20.125, and 50.29.045; providing an expiration date; and declaring an emergency.

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

Sec. 1. RCW 50.01.010 and 1945 c 35 s 2 are each amended to read as follows:

Whereas, economic insecurity due to unemployment is a serious menace to the health, morals and welfare of the people of this state; involuntary unemployment is, therefore, a subject of general interest and concern which requires appropriate action by the legislature to prevent its spread and to lighten its burden which now so often falls with crushing force upon the unemployed worker and his family. Social security requires protection against this greatest hazard of our economic life. This can be provided only by application of the

insurance principle of sharing the risks, and by the systematic accumulation of funds during periods of employment to provide benefits for periods of unemployment, thus maintaining purchasing powers and limiting the serious social consequences of relief assistance. The state of Washington, therefore, exercising herein its police and sovereign power endeavors by this title to remedy any widespread unemployment situation which may occur and to set up safeguards to prevent its recurrence in the years to come. The legislature, therefore, declares that in its considered judgment the public good, and the general welfare of the citizens of this state require the enactment of this measure, under the police powers of the state, for the compulsory setting aside of unemployment reserves to be used for the benefit of persons unemployed through no fault of their own(~~(, and that this title shall be liberally construed for the purpose of reducing involuntary unemployment and the suffering caused thereby to the minimum))~~).

PART I - UNEMPLOYMENT ELIGIBILITY AND COMPENSATION

NEW SECTION. Sec. 2. A new section is added to chapter 50.04 RCW to read as follows:

After December 31, 2003, for the purpose of the payment of contributions, the term "wages" does not include an employee's income attributable to the transfer of shares of stock to the employee pursuant to his or her exercise of a stock option granted for any reason connected with his or her employment.

Sec. 3. RCW 50.20.010 and 1995 c 381 s 1 are each amended to read as follows:

(1) An unemployed individual shall be eligible to receive waiting period credits or benefits with respect to any week in his or her eligibility period only if the commissioner finds that:

~~((1))~~ (a) He or she has registered for work at, and thereafter has continued to report at, an employment office in accordance with such regulation as the commissioner may prescribe, except that the commissioner may by regulation waive or alter either or both of the requirements of this subdivision as to individuals attached to regular jobs and as to such other types of cases or situations with respect to which the commissioner finds that the compliance with such requirements would be oppressive, or would be inconsistent with the purposes of this title;

~~((2))~~ (b) He or she has filed an application for an initial determination and made a claim for waiting period credit or for benefits in accordance with the provisions of this title;

~~((3))~~ (c) He or she is able to work, and is available for work in any trade, occupation, profession, or business for which he or she is reasonably fitted.

(i) With respect to claims that have an effective date before January 4, 2004, to be available for work an individual must be ready, able, and willing, immediately to accept any suitable work which may be offered to him or her and must be actively seeking work pursuant to customary trade practices and through other methods when so directed by the commissioner or the commissioner's agents.

(ii) With respect to claims that have an effective date on or after January 4, 2004, to be available for work an individual must be ready, able, and willing,

immediately to accept any suitable work which may be offered to him or her and must be actively seeking work pursuant to customary trade practices and through other methods when so directed by the commissioner or the commissioner's agents. If a labor agreement or dispatch rules apply, customary trade practices must be in accordance with the applicable agreement or rules;

~~((4))~~ (d) He or she has been unemployed for a waiting period of one week;

~~((5))~~ (e) He or she participates in reemployment services if the individual has been referred to reemployment services pursuant to the profiling system established by the commissioner under RCW 50.20.011, unless the commissioner determines that:

~~((a))~~ (i) The individual has completed such services; or

~~((b))~~ (ii) There is justifiable cause for the claimant's failure to participate in such services; and

~~((6))~~ (f) As to weeks beginning after March 31, 1981, which fall within an extended benefit period as defined in RCW 50.22.010, the individual meets the terms and conditions of RCW 50.22.020 with respect to benefits claimed in excess of twenty-six times the individual's weekly benefit amount.

(2) An individual's eligibility period for regular benefits shall be coincident to his or her established benefit year. An individual's eligibility period for additional or extended benefits shall be the periods prescribed elsewhere in this title for such benefits.

Sec. 4. RCW 50.20.050 and 2002 c 8 s 1 are each amended to read as follows:

(1) With respect to claims that have an effective date before January 4, 2004:

(a) An individual shall be disqualified from benefits beginning with the first day of the calendar week in which he or she has left work voluntarily without good cause and thereafter for seven calendar weeks and until he or she has obtained bona fide work in employment covered by this title and earned wages in that employment equal to seven times his or her weekly benefit amount.

The disqualification shall continue if the work obtained is a mere sham to qualify for benefits and is not bona fide work. In determining whether work is of a bona fide nature, the commissioner shall consider factors including but not limited to the following:

~~((a))~~ (i) The duration of the work;

~~((b))~~ (ii) The extent of direction and control by the employer over the work; and

~~((c))~~ (iii) The level of skill required for the work in light of the individual's training and experience.

~~((2))~~ (b) An individual shall not be considered to have left work voluntarily without good cause when:

~~((a))~~ (i) He or she has left work to accept a bona fide offer of bona fide work as described in ~~(subsection (1))~~ (a) of this ~~(section)~~ subsection;

~~((b))~~ (ii) The separation was because of the illness or disability of the claimant or the death, illness, or disability of a member of the claimant's immediate family if the claimant took all reasonable precautions, in accordance with any regulations that the commissioner may prescribe, to protect his or her employment status by having promptly notified the employer of the reason for the absence and by having promptly requested reemployment when again able to

assume employment: PROVIDED, That these precautions need not have been taken when they would have been a futile act, including those instances when the futility of the act was a result of a recognized labor/management dispatch system;

~~((e))~~ (iii) He or she has left work to relocate for the spouse's employment that is due to an employer-initiated mandatory transfer that is outside the existing labor market area if the claimant remained employed as long as was reasonable prior to the move; or

~~((d))~~ (iv) The separation was necessary to protect the claimant or the claimant's immediate family members from domestic violence, as defined in RCW 26.50.010, or stalking, as defined in RCW 9A.46.110.

~~((3))~~ (c) In determining under this ~~((section))~~ subsection whether an individual has left work voluntarily without good cause, the commissioner shall only consider work-connected factors such as the degree of risk involved to the individual's health, safety, and morals, the individual's physical fitness for the work, the individual's ability to perform the work, and such other work connected factors as the commissioner may deem pertinent, including state and national emergencies. Good cause shall not be established for voluntarily leaving work because of its distance from an individual's residence where the distance was known to the individual at the time he or she accepted the employment and where, in the judgment of the department, the distance is customarily traveled by workers in the individual's job classification and labor market, nor because of any other significant work factor which was generally known and present at the time he or she accepted employment, unless the related circumstances have so changed as to amount to a substantial involuntary deterioration of the work factor or unless the commissioner determines that other related circumstances would work an unreasonable hardship on the individual were he or she required to continue in the employment.

~~((4))~~ (d) Subsection~~((s))~~ (1)~~(a)~~ and ~~((3))~~ (c) of this section shall not apply to an individual whose marital status or domestic responsibilities cause him or her to leave employment. Such an individual shall not be eligible for unemployment insurance benefits beginning with the first day of the calendar week in which he or she left work and thereafter for seven calendar weeks and until he or she has requalified, either by obtaining bona fide work in employment covered by this title and earning wages in that employment equal to seven times his or her weekly benefit amount or by reporting in person to the department during ten different calendar weeks and certifying on each occasion that he or she is ready, able, and willing to immediately accept any suitable work which may be offered, is actively seeking work pursuant to customary trade practices, and is utilizing such employment counseling and placement services as are available through the department. This subsection does not apply to individuals covered by ~~((subsection (2)(b) or (e) of this section))~~ (b)(ii) or (iii) of this subsection.

(2) With respect to claims that have an effective date on or after January 4, 2004:

(a) An individual shall be disqualified from benefits beginning with the first day of the calendar week in which he or she has left work voluntarily without good cause and thereafter for seven calendar weeks and until he or she has

obtained bona fide work in employment covered by this title and earned wages in that employment equal to seven times his or her weekly benefit amount.

The disqualification shall continue if the work obtained is a mere sham to qualify for benefits and is not bona fide work. In determining whether work is of a bona fide nature, the commissioner shall consider factors including but not limited to the following:

(i) The duration of the work;

(ii) The extent of direction and control by the employer over the work; and

(iii) The level of skill required for the work in light of the individual's training and experience.

(b) An individual is not disqualified from benefits under (a) of this subsection when:

(i) He or she has left work to accept a bona fide offer of bona fide work as described in (a) of this subsection;

(ii) The separation was necessary because of the illness or disability of the claimant or the death, illness, or disability of a member of the claimant's immediate family if:

(A) The claimant pursued all reasonable alternatives to preserve his or her employment status by requesting a leave of absence, by having promptly notified the employer of the reason for the absence, and by having promptly requested reemployment when again able to assume employment. These alternatives need not be pursued, however, when they would have been a futile act, including those instances when the futility of the act was a result of a recognized labor/management dispatch system; and

(B) The claimant terminated his or her employment status, and is not entitled to be reinstated to the same position or a comparable or similar position;

(iii) He or she: (A) Left work to relocate for the spouse's employment that, due to a mandatory military transfer: (I) Is outside the existing labor market area; and (II) is in Washington or another state that, pursuant to statute, does not consider such an individual to have left work voluntarily without good cause; and (B) remained employed as long as was reasonable prior to the move;

(iv) The separation was necessary to protect the claimant or the claimant's immediate family members from domestic violence, as defined in RCW 26.50.010, or stalking, as defined in RCW 9A.46.110;

(v) The individual's usual compensation was reduced by twenty-five percent or more;

(vi) The individual's usual hours were reduced by twenty-five percent or more;

(vii) The individual's worksite changed, such change caused a material increase in distance or difficulty of travel, and, after the change, the commute was greater than is customary for workers in the individual's job classification and labor market;

(viii) The individual's worksite safety deteriorated, the individual reported such safety deterioration to the employer, and the employer failed to correct the hazards within a reasonable period of time;

(ix) The individual left work because of illegal activities in the individual's worksite, the individual reported such activities to the employer, and the employer failed to end such activities within a reasonable period of time; or

(x) The individual's usual work was changed to work that violates the individual's religious convictions or sincere moral beliefs.

Sec. 5. RCW 50.04.293 and 1993 c 483 s 1 are each amended to read as follows:

With respect to claims that have an effective date before January 4, 2004, "misconduct" means an employee's act or failure to act in willful disregard of his or her employer's interest where the effect of the employee's act or failure to act is to harm the employer's business.

NEW SECTION. **Sec. 6.** A new section is added to chapter 50.04 RCW to read as follows:

With respect to claims that have an effective date on or after January 4, 2004:

(1) "Misconduct" includes, but is not limited to, the following conduct by a claimant:

(a) Willful or wanton disregard of the rights, title, and interests of the employer or a fellow employee;

(b) Deliberate violations or disregard of standards of behavior which the employer has the right to expect of an employee;

(c) Carelessness or negligence that causes or would likely cause serious bodily harm to the employer or a fellow employee; or

(d) Carelessness or negligence of such degree or recurrence to show an intentional or substantial disregard of the employer's interest.

(2) The following acts are considered misconduct because the acts signify a willful or wanton disregard of the rights, title, and interests of the employer or a fellow employee. These acts include, but are not limited to:

(a) Insubordination showing a deliberate, willful, or purposeful refusal to follow the reasonable directions or instructions of the employer;

(b) Repeated inexcusable tardiness following warnings by the employer;

(c) Dishonesty related to employment, including but not limited to deliberate falsification of company records, theft, deliberate deception, or lying;

(d) Repeated and inexcusable absences, including absences for which the employee was able to give advance notice and failed to do so;

(e) Deliberate acts that are illegal, provoke violence or violation of laws, or violate the collective bargaining agreement. However, an employee who engages in lawful union activity may not be disqualified due to misconduct;

(f) Violation of a company rule if the rule is reasonable and if the claimant knew or should have known of the existence of the rule; or

(g) Violations of law by the claimant while acting within the scope of employment that substantially affect the claimant's job performance or that substantially harm the employer's ability to do business.

(3) "Misconduct" does not include:

(a) Inefficiency, unsatisfactory conduct, or failure to perform well as the result of inability or incapacity;

(b) Inadvertence or ordinary negligence in isolated instances; or

(c) Good faith errors in judgment or discretion.

(4) "Gross misconduct" means a criminal act in connection with an individual's work for which the individual has been convicted in a criminal court, or has admitted committing, or conduct connected with the individual's

work that demonstrates a flagrant and wanton disregard of and for the rights, title, or interest of the employer or a fellow employee.

Sec. 7. RCW 50.20.060 and 2000 c 2 s 13 are each amended to read as follows:

With respect to claims that have an effective date before January 4, 2004, an individual shall be disqualified from benefits beginning with the first day of the calendar week in which he or she has been discharged or suspended for misconduct connected with his or her work and thereafter for seven calendar weeks and until he or she has obtained bona fide work in employment covered by this title and earned wages in that employment equal to seven times his or her weekly benefit amount. Alcoholism shall not constitute a defense to disqualification from benefits due to misconduct.

Sec. 8. RCW 50.20.065 and 1993 c 483 s 11 are each amended to read as follows:

With respect to claims that have an effective date before January 4, 2004:

(1) An individual who has been discharged from his or her work because of a felony or gross misdemeanor of which he or she has been convicted, or has admitted committing to a competent authority, and that is connected with his or her work shall have all hourly wage credits based on that employment canceled.

(2) The employer shall notify the department of such an admission or conviction, not later than six months following the admission or conviction.

(3) The claimant shall disclose any conviction of the claimant of a work-connected felony or gross misdemeanor occurring in the previous two years to the department at the time of application for benefits.

(4) All benefits that are paid in error based on wage/hour credits that should have been removed from the claimant's base year are recoverable, notwithstanding RCW 50.20.190 or 50.24.020 or any other provisions of this title.

NEW SECTION. **Sec. 9.** A new section is added to chapter 50.20 RCW to read as follows:

With respect to claims that have an effective date on or after January 4, 2004:

(1) An individual shall be disqualified from benefits beginning with the first day of the calendar week in which he or she has been discharged or suspended for misconduct connected with his or her work and thereafter for ten calendar weeks and until he or she has obtained bona fide work in employment covered by this title and earned wages in that employment equal to ten times his or her weekly benefit amount. Alcoholism shall not constitute a defense to disqualification from benefits due to misconduct.

(2) An individual who has been discharged from his or her work because of gross misconduct shall have all hourly wage credits based on that employment or six hundred eighty hours of wage credits, whichever is greater, canceled.

(3) The employer shall notify the department of a felony or gross misdemeanor of which an individual has been convicted, or has admitted committing to a competent authority, not later than six months following the admission or conviction.

(4) The claimant shall disclose any conviction of the claimant of a work-connected felony or gross misdemeanor occurring in the previous two years to the department at the time of application for benefits.

(5) All benefits that are paid in error based on this section are recoverable, notwithstanding RCW 50.20.190 or 50.24.020 or any other provisions of this title.

Sec. 10. RCW 50.20.240 and 2002 c 8 s 3 are each amended to read as follows:

(1)(a) To ensure that following the initial application for benefits, an individual is actively engaged in searching for work, (~~effective July 1, 1999,~~) the employment security department shall implement a job search monitoring program. Effective January 4, 2004, the department shall contract with employment security agencies in other states to ensure that individuals residing in those states and receiving benefits under this title are actively engaged in searching for work in accordance with the requirements of this section. The department may use interactive voice technology and other electronic means to ensure that individuals are subject to comparable job search monitoring, regardless of whether they reside in Washington or elsewhere.

(b) Except for those individuals with employer attachment or union referral, individuals who qualify for unemployment compensation under RCW 50.20.050(~~(2)(d)~~) (1)(b)(iii) or (2)(b)(v), as applicable, and individuals in commissioner-approved training, an individual who has received five or more weeks of benefits under this title, regardless of whether the individual resides in Washington or elsewhere, must provide evidence of seeking work, as directed by the commissioner or the commissioner's agents, for each week beyond five in which a claim is filed. With regard to claims with an effective date before January 4, 2004, the evidence must demonstrate contacts with at least three employers per week or documented in-person job search activity at the local reemployment center. With regard to claims with an effective date on or after January 4, 2004, the evidence must demonstrate contacts with at least three employers per week or documented in-person job search activities at the local reemployment center at least three times per week.

(c) In developing the requirements for the job search monitoring program, the commissioner or the commissioner's agents shall utilize an existing advisory committee having equal representation of employers and workers.

(2) Effective January 4, 2004, an individual who fails to comply fully with the requirements for actively seeking work under RCW 50.20.010 shall lose all benefits for all weeks during which the individual was not in compliance, and the individual shall be liable for repayment of all such benefits under RCW 50.20.190.

Sec. 11. RCW 50.20.120 and 2002 c 149 s 4 are each amended to read as follows:

(1)(a) Subject to the other provisions of this title, benefits shall be payable to any eligible individual during the individual's benefit year in a maximum amount equal to the lesser of thirty times the weekly benefit amount (~~((determined hereinafter))~~), as determined in subsection (2) of this section, or one-third of the individual's base year wages under this title: PROVIDED, That as to any week (~~((beginning on and after March 31, 1981,))~~) which falls in an

extended benefit period as defined in RCW 50.22.010(1), (~~as now or hereafter amended,~~) an individual's eligibility for maximum benefits in excess of twenty-six times his or her weekly benefit amount will be subject to the terms and conditions set forth in RCW 50.22.020(~~, as now or hereafter amended~~).

(b) With respect to claims that have an effective date on or after the first Sunday of the calendar month immediately following the month in which the commissioner finds that the state unemployment rate is six and eight-tenths percent or less, benefits shall be payable to any eligible individual during the individual's benefit year in a maximum amount equal to the lesser of twenty-six times the weekly benefit amount, as determined in subsection (2) of this section, or one-third of the individual's base year wages under this title.

(2)(a) For claims with an effective date before January 4, 2004, an individual's weekly benefit amount shall be an amount equal to one twenty-fifth of the average quarterly wages of the individual's total wages during the two quarters of the individual's base year in which such total wages were highest.

(b) With respect to claims with an effective date on or after January 4, 2004, and before January 2, 2005, an individual's weekly benefit amount shall be an amount equal to one twenty-fifth of the average quarterly wages of the individual's total wages during the three quarters of the individual's base year in which such total wages were highest.

(c) With respect to claims with an effective date on or after January 2, 2005, an individual's weekly benefit amount shall be an amount equal to one percent of the total wages paid in the individual's base year.

(3) The maximum and minimum amounts payable weekly shall be determined as of each June 30th to apply to benefit years beginning in the twelve-month period immediately following such June 30th. (~~Except as provided in RCW 50.20.125,~~)

(a)(i) With respect to claims that have an effective date before January 4, 2004, the maximum amount payable weekly shall be seventy percent of the "average weekly wage" for the calendar year preceding such June 30th.

(ii) With respect to claims that have an effective date on or after January 4, 2004, the maximum amount payable weekly shall be either four hundred ninety-six dollars or sixty-three percent of the "average weekly wage" for the calendar year preceding such June 30th, whichever is greater.

(b) The minimum amount payable weekly shall be fifteen percent of the "average weekly wage" for the calendar year preceding such June 30th.

(4) If any weekly benefit, maximum benefit, or minimum benefit amount computed herein is not a multiple of one dollar, it shall be reduced to the next lower multiple of one dollar.

NEW SECTION. Sec. 12. A new section is added to chapter 50.20 RCW to read as follows:

(1) With respect to claims that have an effective date on or after January 2, 2005, an otherwise eligible individual may not be denied benefits for any week because the individual is a part-time worker and is available for, seeks, applies for, or accepts only work of seventeen or fewer hours per week by reason of the application of RCW 50.20.010(1)(c), 50.20.080, or 50.22.020(1) relating to availability for work and active search for work, or failure to apply for or refusal to accept suitable work.

(2) For purposes of this section, "part-time worker" means an individual who: (a) Earned wages in "employment" in at least forty weeks in the individual's base year; and (b) did not earn wages in "employment" in more than seventeen hours per week in any weeks in the individual's base year.

Sec. 13. RCW 50.20.100 and 2002 c 8 s 2 are each amended to read as follows:

(1) Suitable work for an individual is employment in an occupation in keeping with the individual's prior work experience, education, or training and if the individual has no prior work experience, special education, or training for employment available in the general area, then employment which the individual would have the physical and mental ability to perform. In determining whether work is suitable for an individual, the commissioner shall also consider the degree of risk involved to the individual's health, safety, and morals, the individual's physical fitness, the individual's length of unemployment and prospects for securing local work in the individual's customary occupation, the distance of the available work from the individual's residence, and such other factors as the commissioner may deem pertinent, including state and national emergencies.

(2) For individuals with base year work experience in agricultural labor, any agricultural labor available from any employer shall be deemed suitable unless it meets conditions in RCW 50.20.110 or the commissioner finds elements of specific work opportunity unsuitable for a particular individual.

(3) For part-time workers as defined in section 12 of this act, suitable work includes suitable work under subsection (1) of this section that is for seventeen or fewer hours per week.

(4) For individuals who have qualified for unemployment compensation benefits under RCW 50.20.050(~~((2)(d))~~) (1)(b)(iii) or (2)(b)(v), as applicable, an evaluation of the suitability of the work must consider the individual's need to address the physical, psychological, legal, and other effects of domestic violence or stalking.

PART II - FINANCING UNEMPLOYMENT COMPENSATION

Sec. 14. RCW 50.29.025 and 2003 c 4 (SHB 1832) s 1 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, the contribution rate for each employer subject to contributions under RCW 50.24.010 shall be determined under this ((section)) subsection.

~~((+))~~ (a) A fund balance ratio shall be determined by dividing the balance in the unemployment compensation fund as of the September 30th immediately preceding the rate year by the total remuneration paid by all employers subject to contributions during the second calendar year preceding the rate year and reported to the department by the following March 31st. The division shall be carried to the fourth decimal place with the remaining fraction, if any, disregarded. The fund balance ratio shall be expressed as a percentage.

~~((2))~~ (b) The interval of the fund balance ratio, expressed as a percentage, shall determine which tax schedule in (e) of this subsection (~~((5) of this section))~~ shall be in effect for assigning tax rates for the rate year. The intervals for determining the effective tax schedule shall be:

Interval of the Fund Balance Ratio Expressed as a Percentage	Effective Tax Schedule
2.90 and above	AA
2.10 to 2.89	A
1.70 to 2.09	B
1.40 to 1.69	C
1.00 to 1.39	D
0.70 to 0.99	E
Less than 0.70	F

~~((3))~~ (c) An array shall be prepared, listing all qualified employers in ascending order of their benefit ratios. The array shall show for each qualified employer: ~~((a))~~ (i) Identification number; ~~((b))~~ (ii) benefit ratio; ~~((e))~~ (iii) taxable payrolls for the four calendar quarters immediately preceding the computation date and reported to the department by the cut-off date; ~~((d))~~ (iv) a cumulative total of taxable payrolls consisting of the employer's taxable payroll plus the taxable payrolls of all other employers preceding him or her in the array; and ~~((e))~~ (v) the percentage equivalent of the cumulative total of taxable payrolls.

~~((4))~~ (d) Each employer in the array shall be assigned to one of twenty rate classes according to the percentage intervals of cumulative taxable payrolls set forth in (e) of this subsection ~~((5) of this section)~~: PROVIDED, That if an employer's taxable payroll falls within two or more rate classes, the employer and any other employer with the same benefit ratio shall be assigned to the lowest rate class which includes any portion of the employer's taxable payroll.

~~((5))~~ (e) Except as provided in RCW 50.29.026, the contribution rate for each employer in the array shall be the rate specified in the following tables for the rate class to which he or she has been assigned, as determined under (d) of this subsection ~~((4) of this section)~~, within the tax schedule which is to be in effect during the rate year:

Percent of Cumulative Taxable Payrolls			Schedules of Contributions Rates for Effective Tax Schedule						
From	To	Rate Class	Rate						
		Class	AA	A	B	C	D	E	F
0.00	5.00	1	0.47	0.47	0.57	0.97	1.47	1.87	2.47
5.01	10.00	2	0.47	0.47	0.77	1.17	1.67	2.07	2.67
10.01	15.00	3	0.57	0.57	0.97	1.37	1.77	2.27	2.87
15.01	20.00	4	0.57	0.73	1.11	1.51	1.90	2.40	2.98
20.01	25.00	5	0.72	0.92	1.30	1.70	2.09	2.59	3.08
25.01	30.00	6	0.91	1.11	1.49	1.89	2.29	2.69	3.18
30.01	35.00	7	1.00	1.29	1.69	2.08	2.48	2.88	3.27

35.01	40.00	8	1.19	1.48	1.88	2.27	2.67	3.07	3.47
40.01	45.00	9	1.37	1.67	2.07	2.47	2.87	3.27	3.66
45.01	50.00	10	1.56	1.86	2.26	2.66	3.06	3.46	3.86
50.01	55.00	11	1.84	2.14	2.45	2.85	3.25	3.66	3.95
55.01	60.00	12	2.03	2.33	2.64	3.04	3.44	3.85	4.15
60.01	65.00	13	2.22	2.52	2.83	3.23	3.64	4.04	4.34
65.01	70.00	14	2.40	2.71	3.02	3.43	3.83	4.24	4.54
70.01	75.00	15	2.68	2.90	3.21	3.62	4.02	4.43	4.63
75.01	80.00	16	2.87	3.09	3.42	3.81	4.22	4.53	4.73
80.01	85.00	17	3.27	3.47	3.77	4.17	4.57	4.87	4.97
85.01	90.00	18	3.67	3.87	4.17	4.57	4.87	4.97	5.17
90.01	95.00	19	4.07	4.27	4.57	4.97	5.07	5.17	5.37
95.01	100.00	20	5.40	5.40	5.40	5.40	5.40	5.40	5.40

~~((6))~~ (f) The contribution rate for each employer not qualified to be in the array shall be as follows:

~~((a))~~ (i) Employers who do not meet the definition of "qualified employer" by reason of failure to pay contributions when due shall be assigned a contribution rate two-tenths higher than that in rate class 20 for the applicable rate year, except employers who have an approved agency-deferred payment contract by September 30 of the previous rate year. If any employer with an approved agency-deferred payment contract fails to make any one of the succeeding deferred payments or fails to submit any succeeding tax report and payment in a timely manner, the employer's tax rate shall immediately revert to a contribution rate two-tenths higher than that in rate class 20 for the applicable rate year; and

~~((b))~~ (ii) For all other employers not qualified to be in the array, the contribution rate shall be a rate equal to the average industry rate as determined by the commissioner; however, the rate may not be less than one percent. ~~((Assignment of employers by the commissioner to industrial classification, for purposes of this section, shall be in accordance with established classification practices found in the "Standard Industrial Classification Manual" issued by the federal office of management and budget to the third digit provided in the standard industrial classification code, or in the North American industry classification system code.))~~

(2) Beginning with contributions assessed for rate year 2005, the contribution rate for each employer subject to contributions under RCW 50.24.010 shall be the sum of the array calculation factor rate and the graduated social cost factor rate determined under this subsection, and the solvency surcharge determined under section 16 of this act, if any.

(a) The array calculation factor rate shall be determined as follows:

(i) An array shall be prepared, listing all qualified employers in ascending order of their benefit ratios. The array shall show for each qualified employer: (A) Identification number; (B) benefit ratio; and (C) taxable payrolls for the four consecutive calendar quarters immediately preceding the computation date and reported to the employment security department by the cut-off date.

(ii) Each employer in the array shall be assigned to one of forty rate classes according to his or her benefit ratio as follows, and, except as provided in RCW

50.29.026, the array calculation factor rate for each employer in the array shall be the rate specified in the rate class to which the employer has been assigned:

<u>Benefit Ratio</u>		<u>Rate</u>	<u>Rate</u>
<u>At least</u>	<u>Less than</u>	<u>Class</u>	<u>(percent)</u>
	<u>0.000001</u>	<u>1</u>	<u>0.00</u>
<u>0.000001</u>	<u>0.001250</u>	<u>2</u>	<u>0.13</u>
<u>0.001250</u>	<u>0.002500</u>	<u>3</u>	<u>0.25</u>
<u>0.002500</u>	<u>0.003750</u>	<u>4</u>	<u>0.38</u>
<u>0.003750</u>	<u>0.005000</u>	<u>5</u>	<u>0.50</u>
<u>0.005000</u>	<u>0.006250</u>	<u>6</u>	<u>0.63</u>
<u>0.006250</u>	<u>0.007500</u>	<u>7</u>	<u>0.75</u>
<u>0.007500</u>	<u>0.008750</u>	<u>8</u>	<u>0.88</u>
<u>0.008750</u>	<u>0.010000</u>	<u>9</u>	<u>1.00</u>
<u>0.010000</u>	<u>0.011250</u>	<u>10</u>	<u>1.15</u>
<u>0.011250</u>	<u>0.012500</u>	<u>11</u>	<u>1.30</u>
<u>0.012500</u>	<u>0.013750</u>	<u>12</u>	<u>1.45</u>
<u>0.013750</u>	<u>0.015000</u>	<u>13</u>	<u>1.60</u>
<u>0.015000</u>	<u>0.016250</u>	<u>14</u>	<u>1.75</u>
<u>0.016250</u>	<u>0.017500</u>	<u>15</u>	<u>1.90</u>
<u>0.017500</u>	<u>0.018750</u>	<u>16</u>	<u>2.05</u>
<u>0.018750</u>	<u>0.020000</u>	<u>17</u>	<u>2.20</u>
<u>0.020000</u>	<u>0.021250</u>	<u>18</u>	<u>2.35</u>
<u>0.021250</u>	<u>0.022500</u>	<u>19</u>	<u>2.50</u>
<u>0.022500</u>	<u>0.023750</u>	<u>20</u>	<u>2.65</u>
<u>0.023750</u>	<u>0.025000</u>	<u>21</u>	<u>2.80</u>
<u>0.025000</u>	<u>0.026250</u>	<u>22</u>	<u>2.95</u>
<u>0.026250</u>	<u>0.027500</u>	<u>23</u>	<u>3.10</u>
<u>0.027500</u>	<u>0.028750</u>	<u>24</u>	<u>3.25</u>
<u>0.028750</u>	<u>0.030000</u>	<u>25</u>	<u>3.40</u>
<u>0.030000</u>	<u>0.031250</u>	<u>26</u>	<u>3.55</u>
<u>0.031250</u>	<u>0.032500</u>	<u>27</u>	<u>3.70</u>
<u>0.032500</u>	<u>0.033750</u>	<u>28</u>	<u>3.85</u>
<u>0.033750</u>	<u>0.035000</u>	<u>29</u>	<u>4.00</u>
<u>0.035000</u>	<u>0.036250</u>	<u>30</u>	<u>4.15</u>
<u>0.036250</u>	<u>0.037500</u>	<u>31</u>	<u>4.30</u>
<u>0.037500</u>	<u>0.040000</u>	<u>32</u>	<u>4.45</u>

<u>0.040000</u>	<u>0.042500</u>	<u>33</u>	<u>4.60</u>
<u>0.042500</u>	<u>0.045000</u>	<u>34</u>	<u>4.75</u>
<u>0.045000</u>	<u>0.047500</u>	<u>35</u>	<u>4.90</u>
<u>0.047500</u>	<u>0.050000</u>	<u>36</u>	<u>5.05</u>
<u>0.050000</u>	<u>0.052500</u>	<u>37</u>	<u>5.20</u>
<u>0.052500</u>	<u>0.055000</u>	<u>38</u>	<u>5.30</u>
<u>0.055000</u>	<u>0.057500</u>	<u>39</u>	<u>5.35</u>
<u>0.057500</u>		<u>40</u>	<u>5.40</u>

(b) The graduated social cost factor rate shall be determined as follows:

(i)(A) Except as provided in (b)(i)(B) and (C) of this subsection, the commissioner shall calculate the flat social cost factor for a rate year by dividing the total social cost by the total taxable payroll. The division shall be carried to the second decimal place with the remaining fraction disregarded unless it amounts to five hundredths or more, in which case the second decimal place shall be rounded to the next higher digit. The flat social cost factor shall be expressed as a percentage.

(B) If, on the cut-off date, the balance in the unemployment compensation fund is determined by the commissioner to be an amount that will provide more than ten months of unemployment benefits, the commissioner shall calculate the flat social cost factor for the rate year immediately following the cut-off date by reducing the total social cost by the dollar amount that represents the number of months for which the balance in the unemployment compensation fund on the cut-off date will provide benefits above ten months and dividing the result by the total taxable payroll. However, the calculation under this subsection (2)(b)(i)(B) for a rate year may not result in a flat social cost factor that is more than two-tenths lower than the calculation under (b)(i)(A) of this subsection for that rate year. For the purposes of this subsection, the commissioner shall determine the number of months of unemployment benefits in the unemployment compensation fund using the benefit cost rate for the average of the three highest calendar benefit cost rates in the twenty consecutive completed calendar years immediately preceding the cut-off date or a period of consecutive calendar years immediately preceding the cut-off date that includes three recessions, if longer.

(C) The minimum flat social cost factor calculated under this subsection (2)(b) shall be six-tenths of one percent.

(ii) The graduated social cost factor rate for each employer in the array is the flat social cost factor multiplied by the percentage specified as follows for the rate class to which the employer has been assigned in (a)(ii) of this subsection, except that the sum of an employer's array calculation factor rate and the graduated social cost factor rate may not exceed six and five-tenths percent or, for employers whose standard industrial classification code is within major group "01," "02," "07," "091," "203," "209," or "5148," or the equivalent code in the North American industry classification system code, may not exceed six percent:

(A) Rate class 1 - 78 percent;

(B) Rate class 2 - 82 percent;

(C) Rate class 3 - 86 percent;

(D) Rate class 4 - 90 percent;

(E) Rate class 5 - 94 percent;

(F) Rate class 6 - 98 percent;

(G) Rate class 7 - 102 percent;

(H) Rate class 8 - 106 percent;

(I) Rate class 9 - 110 percent;

(J) Rate class 10 - 114 percent;

(K) Rate class 11 - 118 percent; and

(L) Rate classes 12 through 40 - 120 percent.

(iii) For the purposes of this section:

(A) "Total social cost" means the amount calculated by subtracting the array calculation factor contributions paid by all employers with respect to the four consecutive calendar quarters immediately preceding the computation date and paid to the employment security department by the cut-off date from the total unemployment benefits paid to claimants in the same four consecutive calendar quarters. To calculate the flat social cost factor for rate year 2005, the commissioner shall calculate the total social cost using the array calculation factor contributions that would have been required to be paid by all employers in the calculation period if (a) of this subsection had been in effect for the relevant period.

(B) "Total taxable payroll" means the total amount of wages subject to tax, as determined under RCW 50.24.010, for all employers in the four consecutive calendar quarters immediately preceding the computation date and reported to the employment security department by the cut-off date.

(c) The array calculation factor rate for each employer not qualified to be in the array shall be as follows:

(i) Employers who do not meet the definition of "qualified employer" by reason of failure to pay contributions when due shall be assigned an array calculation factor rate two-tenths higher than that in rate class 40, except employers who have an approved agency-deferred payment contract by September 30th of the previous rate year. If any employer with an approved agency-deferred payment contract fails to make any one of the succeeding deferred payments or fails to submit any succeeding tax report and payment in a timely manner, the employer's tax rate shall immediately revert to an array calculation factor rate two-tenths higher than that in rate class 40; and

(ii) For all other employers not qualified to be in the array, the array calculation factor rate shall be a rate equal to the average industry array calculation factor rate as determined by the commissioner, plus fifteen percent of that amount; however, the rate may not be less than one percent or more than the array calculation factor rate in rate class 40.

(d) The graduated social cost factor rate for each employer not qualified to be in the array shall be as follows:

(i) For employers whose array calculation factor rate is determined under (c)(i) of this subsection, the social cost factor rate shall be the social cost factor rate assigned to rate class 40 under (b)(ii) of this subsection.

(ii) For employers whose array calculation factor rate is determined under (c)(ii) of this subsection, the social cost factor rate shall be a rate equal to the average industry social cost factor rate as determined by the commissioner, plus

fifteen percent of that amount, but not more than the social cost factor rate assigned to rate class 40 under (b)(ii) of this subsection.

(3) Assignment of employers by the commissioner to industrial classification, for purposes of this section, shall be in accordance with established classification practices found in the "Standard Industrial Classification Manual" issued by the federal office of management and budget to the third digit provided in the standard industrial classification code, or in the North American industry classification system code.

Sec. 15. RCW 50.04.355 and 2000 c 2 s 1 are each amended to read as follows:

(1) For computations made before January 1, 2007, the employment security department shall compute, on or before the fifteenth day of June of each year, an "average annual wage", an "average weekly wage", and an "average annual wage for contributions purposes" (~~shall be computed~~) from information for the specified preceding calendar years including corrections thereof reported within three months after the close of the final year of the specified years by all employers as defined in RCW 50.04.080.

~~((+))~~ (a) The "average annual wage" is the quotient derived by dividing the total remuneration reported by all employers for the preceding calendar year by the average number of workers reported for all months of the preceding calendar year and if the result is not a multiple of one dollar, rounding the result to the next lower multiple of one dollar.

~~((+))~~ (b) The "average weekly wage" is the quotient derived by dividing the "average annual wage" obtained under ~~((+))~~ (a) of this subsection by fifty-two and if the result is not a multiple of one dollar, rounding the result to the next lower multiple of one dollar.

~~((+))~~ (c) The "average annual wage for ~~(contribution[s])~~ contributions purposes" is the quotient derived by dividing by three the total remuneration reported by all employers subject to contributions for the preceding three consecutive calendar years and dividing this amount by the average number of workers reported for all months of these three years by these same employers and if the result is not a multiple of one dollar, rounding the result to the next lower multiple of one dollar.

(2) For computations made on or after January 1, 2007, the employment security department shall compute, on or before the fifteenth day of June of each year, an "average annual wage," an "average weekly wage," and an "average annual wage for contributions purposes" from information for the preceding calendar year including corrections thereof reported within three months after the close of that year by all employers as defined in RCW 50.04.080.

(a) The "average annual wage" is the quotient derived by dividing the total remuneration reported by all employers by the average number of workers reported for all months and if the result is not a multiple of one dollar, rounding the result to the next lower multiple of one dollar.

(b) The "average weekly wage" is the quotient derived by dividing the "average annual wage" obtained under (a) of this subsection by fifty-two and if the result is not a multiple of one dollar, rounding the result to the next lower multiple of one dollar.

(c) The "average annual wage for contributions purposes" is the quotient derived by dividing the total remuneration reported by all employers subject to

contributions by the average number of workers reported for all months by these same employers and if the result is not a multiple of one dollar, rounding the result to the next lower multiple of one dollar.

NEW SECTION. Sec. 16. A new section is added to chapter 50.29 RCW to read as follows:

Beginning with contributions assessed for rate year 2005, the contribution rate of each employer subject to contributions under RCW 50.24.010 shall include a solvency surcharge determined as follows:

(1) This section shall apply to employers' contributions for a rate year immediately following a cut-off date only if, on the cut-off date, the balance in the unemployment compensation fund is determined by the commissioner to be an amount that will provide fewer than six months of unemployment benefits.

(2) The solvency surcharge shall be the lowest rate necessary, as determined by the commissioner, but not more than two-tenths of one percent, to provide revenue during the applicable rate year that will fund unemployment benefits for the number of months that is the difference between eight months and the number of months for which the balance in the unemployment compensation fund on the cut-off date will provide benefits.

(3) The basis for determining the number of months of unemployment benefits shall be the same basis used in RCW 50.29.025(2)(b)(i)(B).

Sec. 17. RCW 50.29.026 and 2000 c 2 s 5 are each amended to read as follows:

(1) Beginning with contributions assessed for rate year 1996, a qualified employer's contribution rate applicable for rate years beginning before January 1, 2005, or array calculation factor rate applicable for rate years beginning on or after January 1, 2005, determined under RCW 50.29.025 may be modified as follows:

(a) Subject to the limitations of this subsection, an employer may make a voluntary contribution of an amount equal to part or all of the benefits charged to the employer's account during the two years most recently ended on June 30th that were used for the purpose of computing the employer's contribution rate applicable for rate years beginning before January 1, 2005, or array calculation factor rate applicable for rate years beginning on or after January 1, 2005. On receiving timely payment of a voluntary contribution, plus a surcharge of ten percent of the amount of the voluntary contribution, the commissioner shall cancel the benefits equal to the amount of the voluntary contribution, excluding the surcharge, and compute a new benefit ratio for the employer. The employer shall then be assigned the contribution rate applicable for rate years beginning before January 1, 2005, or array calculation factor rate applicable for rate years beginning on or after January 1, 2005, applicable to the rate class within which the recomputed benefit ratio is included. The minimum amount of a voluntary contribution, excluding the surcharge, must be an amount that will result in a recomputed benefit ratio that is in a rate class at least ~~((two))~~ four rate classes lower than the rate class that included the employer's original benefit ratio.

(b) Payment of a voluntary contribution is considered timely if received by the department during the period beginning on the date of mailing to the employer the notice of contribution rate applicable for rate years beginning before January 1, 2005, or notice of array calculation factor rate applicable for

rate years beginning on or after January 1, 2005, required under this title for the rate year for which the employer is seeking a modification of his or her ((contribution)) rate and ending on February 15th of that rate year or, for voluntary contributions for rate year 2000, ending on March 31, 2000.

(c) A benefit ratio may not be recomputed nor a ((contribution)) rate be reduced under this section as a result of a voluntary contribution received after the payment period prescribed in (b) of this subsection.

(2) This section does not apply to any employer who has not had an increase of at least ((six*)) twelve rate classes from the previous tax rate year.

Sec. 18. RCW 50.29.062 and 1996 c 238 s 1 are each amended to read as follows:

Predecessor and successor employer contribution rates shall be computed in the following manner:

(1) If the successor is an employer, as defined in RCW 50.04.080, at the time of the transfer, its contribution rate shall remain unchanged for the remainder of the rate year in which the transfer occurs. From and after January 1 following the transfer, the successor's contribution rate for each rate year shall be based on its experience with payrolls and benefits including the experience of the acquired business or portion of a business from the date of transfer, as of the regular computation date for that rate year.

(2) For transfers before January 1, 2005, the following applies if the successor is not an employer at the time of the transfer((,-it)). The successor shall pay contributions at the lowest rate determined under either of the following:

(a)(i) For transfers before January 1, 1997, the contribution rate of the rate class assigned to the predecessor employer at the time of the transfer for the remainder of that rate year and continuing until the successor qualifies for a different rate in its own right;

(ii) For transfers on or after January 1, 1997, the contribution rate of the rate class assigned to the predecessor employer at the time of the transfer for the remainder of that rate year. Any experience relating to the assignment of that rate class attributable to the predecessor is transferred to the successor. Beginning with the January 1 following the transfer, the successor's contribution rate shall be based on the transferred experience of the acquired business and the successor's experience after the transfer; or

(b) The contribution rate equal to the average industry rate as determined by the commissioner, but not less than one percent, and continuing until the successor qualifies for a different rate in its own right. Assignment of employers by the commissioner to industrial classification, for purposes of this subsection, must be in accordance with established classification practices found in the "Standard Industrial Classification Manual" issued by the federal office of management and budget to the third digit provided in the standard industrial classification code, or in the North American industry classification code system.

(3) For transfers before January 1, 2005, if the successor is not an employer at the time of the transfer and simultaneously acquires the business or a portion of the business of two or more employers in different rate classes, its rate from the date the transfer occurred until the end of that rate year and until it qualifies in its own right for a new rate, shall be the highest rate class applicable at the

time of the acquisition to any predecessor employer who is a party to the acquisition, but not less than one percent.

(4) For transfers on or after January 1, 2005, the following applies if the successor is not an employer at the time of the transfer:

(a) Except as provided in (b) of this subsection, the successor shall pay contributions:

(i) At the contribution rate determined for the predecessor employer at the time of the transfer for the remainder of the rate year. Any experience attributable to the predecessor relating to the assignment of the predecessor's rate class is transferred to the successor. On and after January 1st following the transfer, the successor's array calculation factor rate shall be based on the transferred experience of the acquired business and the successor's experience after the transfer; or

(ii) At the contribution rate equal to the sum of the rates determined by the commissioner under RCW 50.29.025(2) (c)(ii) and (d)(ii), and section 16 of this act, if applicable, and continuing until the successor qualifies for a different rate in its own right.

(b) If there is a substantial continuity of ownership or management by the successor of the business of the predecessor, the successor shall pay contributions at the contribution rate determined for the predecessor employer at the time of the transfer for the remainder of that rate year. Any experience attributable to the predecessor relating to the assignment of the predecessor's rate class is transferred to the successor. On and after January 1st following the transfer, the successor's array calculation factor rate shall be based on the transferred experience of the acquired business and the successor's experience after the transfer.

(c) If the successor simultaneously acquires the business or a portion of the business of two or more employers with different contribution rates the successor's rate from the date the transfer occurred until the end of that rate year and until it qualifies in its own right for a new rate, shall be the sum of the rates determined by the commissioner under RCW 50.29.025(2) (a) and (b), and section 16 of this act, applicable at the time of the acquisition to the predecessor employer who, among the parties to the acquisition, had the largest taxable payroll in the completed calendar quarter immediately preceding the date of transfer but not less than the sum of the rates determined by the commissioner under RCW 50.29.025(2) (c)(ii) and (d)(ii), and section 16 of this act, if applicable.

(5) The contribution rate on any payroll retained by a predecessor employer shall remain unchanged for the remainder of the rate year in which the transfer occurs.

((5)) (6) In all cases, from and after January 1 following the transfer, the predecessor's contribution rate or, beginning January 1, 2005, the predecessor's array calculation factor for each rate year shall be based on its experience with payrolls and benefits as of the regular computation date for that rate year including the experience of the acquired business or portion of business up to the date of transfer: PROVIDED, That if all of the predecessor's business is transferred to a successor or successors, the predecessor shall not be a qualified employer until it satisfies the requirements of a "qualified employer" as set forth in RCW 50.29.010.

Sec. 19. RCW 50.29.070 and 1990 c 245 s 8 are each amended to read as follows:

(1) Within a reasonable time after the computation date each employer shall be notified of the employer's rate of contribution as determined for the succeeding rate year and factors used in the calculation. Beginning with rate year 2005, the notice must include the amount of the contribution rate that is attributable to each component of the rate under RCW 50.29.025(2).

(2) Any employer dissatisfied with the benefit charges made to the employer's account for the twelve-month period immediately preceding the computation date or with his or her determined rate may file a request for review and redetermination with the commissioner within thirty days of the mailing of the notice to the employer, showing the reason for such request. Should such request for review and redetermination be denied, the employer may, within thirty days of the mailing of such notice of denial, file with the appeal tribunal a petition for hearing which shall be heard in the same manner as a petition for denial of refund. The appellate procedure prescribed by this title for further appeal shall apply to all denials of review and redetermination under this section.

Sec. 20. RCW 50.29.020 and 2002 c 149 s 6 and 2002 c 8 s 4 are each reenacted and amended to read as follows:

(1) This section applies to benefits charged to the experience rating accounts of employers for claims that have an effective date before January 4, 2004.

(2) An experience rating account shall be established and maintained for each employer, except employers as described in RCW 50.44.010 and 50.44.030 who have properly elected to make payments in lieu of contributions, taxable local government employers as described in RCW 50.44.035, and those employers who are required to make payments in lieu of contributions, based on existing records of the employment security department. Benefits paid to any eligible individuals shall be charged to the experience rating accounts of each of such individual's employers during the individual's base year in the same ratio that the wages paid by each employer to the individual during the base year bear to the wages paid by all employers to that individual during that base year, except as otherwise provided in this section.

~~((2))~~ (3) The legislature finds that certain benefit payments, in whole or in part, should not be charged to the experience rating accounts of employers except those employers described in RCW 50.44.010 and 50.44.030 who have properly elected to make payments in lieu of contributions, taxable local government employers described in RCW 50.44.035, and those employers who are required to make payments in lieu of contributions, as follows:

(a) Benefits paid to any individuals later determined to be ineligible shall not be charged to the experience rating account of any contribution paying employer.

(b) Benefits paid to an individual filing under the provisions of chapter 50.06 RCW shall not be charged to the experience rating account of any contribution paying employer only if:

(i) The individual files under RCW 50.06.020(1) after receiving crime victims' compensation for a disability resulting from a nonwork-related occurrence; or

(ii) The individual files under RCW 50.06.020(2).

(c) Benefits paid which represent the state's share of benefits payable as extended benefits defined under RCW 50.22.010(6) shall not be charged to the experience rating account of any contribution paying employer.

(d) In the case of individuals who requalify for benefits under RCW 50.20.050 or 50.20.060, benefits based on wage credits earned prior to the disqualifying separation shall not be charged to the experience rating account of the contribution paying employer from whom that separation took place.

(e) Individuals who qualify for benefits under RCW 50.20.050(~~((2)(d))~~) (1)(b)(iii) shall not have their benefits charged to the experience rating account of any contribution paying employer.

(f) In the case of individuals identified under RCW 50.20.015, benefits paid with respect to a calendar quarter, which exceed the total amount of wages earned in the state of Washington in the higher of two corresponding calendar quarters included within the individual's determination period, as defined in RCW 50.20.015, shall not be charged to the experience rating account of any contribution paying employer.

~~((3)(a))~~ (4)(a) A contribution-paying base year employer, not otherwise eligible for relief of charges for benefits under this section, may receive such relief if the benefit charges result from payment to an individual who:

(i) Last left the employ of such employer voluntarily for reasons not attributable to the employer;

(ii) Was discharged for misconduct connected with his or her work not a result of inability to meet the minimum job requirements;

(iii) Is unemployed as a result of closure or severe curtailment of operation at the employer's plant, building, worksite, or other facility. This closure must be for reasons directly attributable to a catastrophic occurrence such as fire, flood, or other natural disaster; or

(iv) Continues to be employed on a regularly scheduled permanent part-time basis by a base year employer and who at some time during the base year was concurrently employed and subsequently separated from at least one other base year employer. Benefit charge relief ceases when the employment relationship between the employer requesting relief and the claimant is terminated. This subsection does not apply to shared work employers under chapter 50.60 RCW.

(b) The employer requesting relief of charges under this subsection must request relief in writing within thirty days following mailing to the last known address of the notification of the valid initial determination of such claim, stating the date and reason for the separation or the circumstances of continued employment. The commissioner, upon investigation of the request, shall determine whether relief should be granted.

NEW SECTION. Sec. 21. A new section is added to chapter 50.29 RCW to read as follows:

(1) This section applies to benefits charged to the experience rating accounts of employers for claims that have an effective date on or after January 4, 2004.

(2)(a) An experience rating account shall be established and maintained for each employer, except employers as described in RCW 50.44.010 and 50.44.030 who have properly elected to make payments in lieu of contributions, taxable local government employers as described in RCW 50.44.035, and those employers who are required to make payments in lieu of contributions, based on existing records of the employment security department.

(b) Benefits paid to an eligible individual shall be charged to the experience rating accounts of each of such individual's employers during the individual's base year in the same ratio that the wages paid by each employer to the individual during the base year bear to the wages paid by all employers to that individual during that base year, except as otherwise provided in this section.

(c) When the eligible individual's separating employer is a covered contribution paying base year employer, benefits paid to the eligible individual shall be charged to the experience rating account of only the individual's separating employer if the individual qualifies for benefits under:

(i) RCW 50.20.050(2)(b)(i), as applicable, and became unemployed after having worked and earned wages in the bona fide work; or

(ii) RCW 50.20.050(2)(b)(v) through (x).

(3) The legislature finds that certain benefit payments, in whole or in part, should not be charged to the experience rating accounts of employers except those employers described in RCW 50.44.010 and 50.44.030 who have properly elected to make payments in lieu of contributions, taxable local government employers described in RCW 50.44.035, and those employers who are required to make payments in lieu of contributions, as follows:

(a) Benefits paid to any individual later determined to be ineligible shall not be charged to the experience rating account of any contribution paying employer.

(b) Benefits paid to an individual filing under the provisions of chapter 50.06 RCW shall not be charged to the experience rating account of any contribution paying employer only if:

(i) The individual files under RCW 50.06.020(1) after receiving crime victims' compensation for a disability resulting from a nonwork-related occurrence; or

(ii) The individual files under RCW 50.06.020(2).

(c) Benefits paid which represent the state's share of benefits payable as extended benefits defined under RCW 50.22.010(6) shall not be charged to the experience rating account of any contribution paying employer.

(d) In the case of individuals who requalify for benefits under RCW 50.20.050 or 50.20.060, benefits based on wage credits earned prior to the disqualifying separation shall not be charged to the experience rating account of the contribution paying employer from whom that separation took place.

(e) Individuals who qualify for benefits under RCW 50.20.050(2)(b)(iv), as applicable, shall not have their benefits charged to the experience rating account of any contribution paying employer.

(4)(a) A contribution paying base year employer, not otherwise eligible for relief of charges for benefits under this section, may receive such relief if the benefit charges result from payment to an individual who:

(i) Last left the employ of such employer voluntarily for reasons not attributable to the employer;

(ii) Was discharged for misconduct or gross misconduct connected with his or her work not a result of inability to meet the minimum job requirements;

(iii) Is unemployed as a result of closure or severe curtailment of operation at the employer's plant, building, worksite, or other facility. This closure must be for reasons directly attributable to a catastrophic occurrence such as fire, flood, or other natural disaster; or

(iv) Continues to be employed on a regularly scheduled permanent part-time basis by a base year employer and who at some time during the base year was concurrently employed and subsequently separated from at least one other base year employer. Benefit charge relief ceases when the employment relationship between the employer requesting relief and the claimant is terminated. This subsection does not apply to shared work employers under chapter 50.60 RCW.

(b) The employer requesting relief of charges under this subsection must request relief in writing within thirty days following mailing to the last known address of the notification of the valid initial determination of such claim, stating the date and reason for the separation or the circumstances of continued employment. The commissioner, upon investigation of the request, shall determine whether relief should be granted.

Sec. 22. RCW 50.12.220 and 1987 c 111 s 2 are each amended to read as follows:

(1)(a) If an employer fails to file in a timely and complete manner a report required by RCW 50.12.070 ((as now or hereafter amended)), or the rules adopted pursuant thereto, the employer shall be subject to a ((minimum)) penalty ((of ten dollars per violation)) to be determined by the commissioner, but not to exceed two hundred fifty dollars or ten percent of the quarterly contributions for each such offense, whichever is less.

(b) If an employer knowingly misrepresents to the employment security department the amount of his or her payroll upon which contributions under this title are based, the employer shall be liable to the state for up to ten times the amount of the difference in contributions paid, if any, and the amount the employer should have paid and for the reasonable expenses of auditing his or her books and collecting such sums. Such liability may be enforced in the name of the department.

(c) If any part of a delinquency for which an assessment is made under this title is due to an intent to evade the successorship provisions of RCW 50.29.062, the commissioner shall assign to the employer, and to any business found to be promoting the evasion of such provisions, the tax rate determined under RCW 50.29.025 for rate class 20 or rate class 40, as applicable, for five consecutive calendar quarters, beginning with the calendar quarter in which the intent to evade such provision is found.

(2) If contributions are not paid on the date on which they are due and payable as prescribed by the commissioner, there shall be assessed a penalty of five percent of the amount of the contributions for the first month or part thereof of delinquency; there shall be assessed a total penalty of ten percent of the amount of the contributions for the second month or part thereof of delinquency; and there shall be assessed a total penalty of twenty percent of the amount of the contributions for the third month or part thereof of delinquency. No penalty so added shall be less than ten dollars. These penalties are in addition to the interest charges assessed under RCW 50.24.040.

(3) Penalties shall not accrue on contributions from an estate in the hands of a receiver, executor, administrator, trustee in bankruptcy, common law assignee, or other liquidating officer subsequent to the date when such receiver, executor, administrator, trustee in bankruptcy, common law assignee, or other liquidating officer qualifies as such, but contributions accruing with respect to employment of persons by a receiver, executor, administrator, trustee in bankruptcy, common

law assignee, or other liquidating officer shall become due and shall be subject to penalties in the same manner as contributions due from other employers.

(4) Where adequate information has been furnished to the department and the department has failed to act or has advised the employer of no liability or inability to decide the issue, penalties shall be waived by the commissioner. Penalties may also be waived for good cause if the commissioner determines that the failure to timely file reports or pay contributions was not due to the employer's fault.

(5) Any decision to assess a penalty as provided by this section shall be made by the chief administrative officer of the tax branch or his or her designee.

(6) Nothing in this section shall be construed to deny an employer the right to appeal the assessment of any penalty. Such appeal shall be made in the manner provided in RCW 50.32.030.

Sec. 23. RCW 50.16.010 and 2002 c 371 s 914 are each amended to read as follows:

(1) There shall be maintained as special funds, separate and apart from all public moneys or funds of this state an unemployment compensation fund, an administrative contingency fund, and a federal interest payment fund, which shall be administered by the commissioner exclusively for the purposes of this title, and to which RCW 43.01.050 shall not be applicable.

(2)(a) The unemployment compensation fund shall consist of:

((1)) (i) All contributions collected under RCW 50.24.010 and payments in lieu of contributions collected pursuant to the provisions of this title((:));

((2)) (ii) Any property or securities acquired through the use of moneys belonging to the fund((:));

((3)) (iii) All earnings of such property or securities((:));

((4)) (iv) Any moneys received from the federal unemployment account in the unemployment trust fund in accordance with Title XII of the social security act, as amended((:));

((5)) (v) All money recovered on official bonds for losses sustained by the fund((:));

((6)) (vi) All money credited to this state's account in the unemployment trust fund pursuant to section 903 of the social security act, as amended((:));

((7)) (vii) All money received from the federal government as reimbursement pursuant to section 204 of the federal-state extended compensation act of 1970 (84 Stat. 708-712; 26 U.S.C. Sec. 3304)((:)); and

((8)) (viii) All moneys received for the fund from any other source.

(b) All moneys in the unemployment compensation fund shall be commingled and undivided.

(3)(a) Except as provided in (b) of this subsection, the administrative contingency fund shall consist of:

(i) All interest on delinquent contributions collected pursuant to this title((:));

(ii) All fines and penalties collected pursuant to the provisions of this title((:));

(iii) All sums recovered on official bonds for losses sustained by the fund((:)); and

(iv) Revenue received under RCW 50.24.014((: ~~PROVIDED, That~~)).

(b) All fees, fines, forfeitures, and penalties collected or assessed by a district court because of the violation of ~~((a state law))~~ this title or rules adopted under this title shall be remitted as provided in chapter 3.62 RCW ~~((as now exists or is later amended))~~.

(c) Moneys available in the administrative contingency fund, other than money in the special account created under RCW 50.24.014(1)(a), shall be expended upon the direction of the commissioner, with the approval of the governor, whenever it appears to him or her that such expenditure is necessary solely for:

~~((a))~~ (i) The proper administration of this title and no federal funds are available for the specific purpose to which such expenditure is to be made, provided, the moneys are not substituted for appropriations from federal funds which, in the absence of such moneys, would be made available.

~~((b))~~ (ii) The proper administration of this title for which purpose appropriations from federal funds have been requested but not yet received, provided, the administrative contingency fund will be reimbursed upon receipt of the requested federal appropriation.

~~((c))~~ (iii) The proper administration of this title for which compliance and audit issues have been identified that establish federal claims requiring the expenditure of state resources in resolution. Claims must be resolved in the following priority: First priority is to provide services to eligible participants within the state; second priority is to provide substitute services or program support; and last priority is the direct payment of funds to the federal government.

~~((d))~~ (During the 2001-2003 fiscal biennium, the cost of worker retraining programs at community and technical colleges as appropriated by the legislature.)

Money in the special account created under RCW 50.24.014(1)(a) may only be expended, after appropriation, for the purposes specified in this section and RCW 50.62.010, 50.62.020, 50.62.030, ~~((50.04.070, 50.04.072, 50.16.010, 50.29.025,))~~ 50.24.014, 50.44.053, and 50.22.010.

Sec. 24. RCW 50.16.015 and 1983 1st ex.s. c 13 s 6 are each amended to read as follows:

A separate and identifiable fund to provide for the payment of interest on advances received from this state's account in the federal unemployment trust fund shall be established and administered under the direction of the commissioner. This fund shall be known as the federal interest payment fund and shall consist of contributions paid under RCW 50.16.070. All money in this fund shall be expended solely for the payment of interest on advances received from this state's account in the federal unemployment trust fund and for no other purposes whatsoever.

Sec. 25. RCW 50.24.014 and 2000 c 2 s 15 are each amended to read as follows:

(1)(a) A separate and identifiable account to provide for the financing of special programs to assist the unemployed is established in the administrative contingency fund. All money in this account shall be expended solely for the purposes of this title and for no other purposes whatsoever. Contributions to this account shall accrue and become payable by each employer, except employers as

described in RCW 50.44.010 and 50.44.030 who have properly elected to make payments in lieu of contributions, taxable local government employers as described in RCW 50.44.035, and those employers who are required to make payments in lieu of contributions, at a basic rate of two one-hundredths of one percent. The amount of wages subject to tax shall be determined under RCW 50.24.010.

(b) A separate and identifiable account is established in the administrative contingency fund for financing the employment security department's administrative cost under RCW 50.22.150 and the costs under RCW 50.22.150(9). All money in this account shall be expended solely for the purposes of this title and for no other purposes whatsoever. Contributions to this account shall accrue and become payable by each employer, except employers as described in RCW 50.44.010 and 50.44.030 who have properly elected to make payments in lieu of contributions, taxable local government employers as described in RCW 50.44.035, those employers who are required to make payments in lieu of contributions, those employers described under RCW 50.29.025(~~((6)(b)))~~ (1)(f)(ii), and those qualified employers assigned rate class 20 or rate class 40, as applicable, under RCW 50.29.025, at a basic rate of one one-hundredth of one percent. The amount of wages subject to tax shall be determined under RCW 50.24.010. Any amount of contributions payable under this subsection (1)(b) that exceeds the amount that would have been collected at a rate of four one-thousandths of one percent must be deposited in the unemployment compensation trust fund.

(c) For the first calendar quarter of 1994 only, the basic two one-hundredths of one percent contribution payable under (a) of this subsection shall be increased by one-hundredth of one percent to a total rate of three one-hundredths of one percent. The proceeds of this incremental one-hundredth of one percent shall be used solely for the purposes described in section 22, chapter 483, Laws of 1993, and for the purposes of conducting an evaluation of the call center approach to unemployment insurance under section 5, chapter 161, Laws of 1998. During the 1997-1999 fiscal biennium, any surplus from contributions payable under this subsection (c) may be deposited in the unemployment compensation trust fund, used to support tax and wage automated systems projects that simplify and streamline employer reporting, or both.

(2)(a) Contributions under this section shall become due and be paid by each employer under rules as the commissioner may prescribe, and shall not be deducted, in whole or in part, from the remuneration of individuals in the employ of the employer. Any deduction in violation of this section is unlawful.

(b) In the payment of any contributions under this section, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent.

(3) If the commissioner determines that federal funding has been increased to provide financing for the services specified in chapter 50.62 RCW, the commissioner shall direct that collection of contributions under this section be terminated on the following January 1st.

Sec. 26. RCW 50.20.190 and 2002 c 371 s 915 are each amended to read as follows:

(1) An individual who is paid any amount as benefits under this title to which he or she is not entitled shall, unless otherwise relieved pursuant to this

section, be liable for repayment of the amount overpaid. The department shall issue an overpayment assessment setting forth the reasons for and the amount of the overpayment. The amount assessed, to the extent not collected, may be deducted from any future benefits payable to the individual: PROVIDED, That in the absence of a back pay award, a settlement affecting the allowance of benefits, fraud, misrepresentation, or willful nondisclosure, every determination of liability shall be mailed or personally served not later than two years after the close of or final payment made on the individual's applicable benefit year for which the purported overpayment was made, whichever is later, unless the merits of the claim are subjected to administrative or judicial review in which event the period for serving the determination of liability shall be extended to allow service of the determination of liability during the six-month period following the final decision affecting the claim.

(2) The commissioner may waive an overpayment if the commissioner finds that the overpayment was not the result of fraud, misrepresentation, willful nondisclosure, or fault attributable to the individual and that the recovery thereof would be against equity and good conscience: PROVIDED, HOWEVER, That the overpayment so waived shall be charged against the individual's applicable entitlement for the eligibility period containing the weeks to which the overpayment was attributed as though such benefits had been properly paid.

(3) Any assessment herein provided shall constitute a determination of liability from which an appeal may be had in the same manner and to the same extent as provided for appeals relating to determinations in respect to claims for benefits: PROVIDED, That an appeal from any determination covering overpayment only shall be deemed to be an appeal from the determination which was the basis for establishing the overpayment unless the merits involved in the issue set forth in such determination have already been heard and passed upon by the appeal tribunal. If no such appeal is taken to the appeal tribunal by the individual within thirty days of the delivery of the notice of determination of liability, or within thirty days of the mailing of the notice of determination, whichever is the earlier, the determination of liability shall be deemed conclusive and final. Whenever any such notice of determination of liability becomes conclusive and final, the commissioner, upon giving at least twenty days notice by certified mail return receipt requested to the individual's last known address of the intended action, may file with the superior court clerk of any county within the state a warrant in the amount of the notice of determination of liability plus a filing fee under RCW 36.18.012(10). The clerk of the county where the warrant is filed shall immediately designate a superior court cause number for the warrant, and the clerk shall cause to be entered in the judgment docket under the superior court cause number assigned to the warrant, the name of the person(s) mentioned in the warrant, the amount of the notice of determination of liability, and the date when the warrant was filed. The amount of the warrant as docketed shall become a lien upon the title to, and any interest in, all real and personal property of the person(s) against whom the warrant is issued, the same as a judgment in a civil case duly docketed in the office of such clerk. A warrant so docketed shall be sufficient to support the issuance of writs of execution and writs of garnishment in favor of the state in the manner provided by law for a civil judgment. A copy of the warrant shall be mailed to

the person(s) mentioned in the warrant by certified mail to the person's last known address within five days of its filing with the clerk.

(4) On request of any agency which administers an employment security law of another state, the United States, or a foreign government and which has found in accordance with the provisions of such law that a claimant is liable to repay benefits received under such law, the commissioner may collect the amount of such benefits from the claimant to be refunded to the agency. In any case in which under this section a claimant is liable to repay any amount to the agency of another state, the United States, or a foreign government, such amounts may be collected without interest by civil action in the name of the commissioner acting as agent for such agency if the other state, the United States, or the foreign government extends such collection rights to the employment security department of the state of Washington, and provided that the court costs be paid by the governmental agency benefiting from such collection.

(5) Any employer who is a party to a back pay award or settlement due to loss of wages shall, within thirty days of the award or settlement, report to the department the amount of the award or settlement, the name and social security number of the recipient of the award or settlement, and the period for which it is awarded. When an individual has been awarded or receives back pay, for benefit purposes the amount of the back pay shall constitute wages paid in the period for which it was awarded. For contribution purposes, the back pay award or settlement shall constitute wages paid in the period in which it was actually paid. The following requirements shall also apply:

(a) The employer shall reduce the amount of the back pay award or settlement by an amount determined by the department based upon the amount of unemployment benefits received by the recipient of the award or settlement during the period for which the back pay award or settlement was awarded;

(b) The employer shall pay to the unemployment compensation fund, in a manner specified by the commissioner, an amount equal to the amount of such reduction;

(c) The employer shall also pay to the department any taxes due for unemployment insurance purposes on the entire amount of the back pay award or settlement notwithstanding any reduction made pursuant to (a) of this subsection;

(d) If the employer fails to reduce the amount of the back pay award or settlement as required in (a) of this subsection, the department shall issue an overpayment assessment against the recipient of the award or settlement in the amount that the back pay award or settlement should have been reduced; and

(e) If the employer fails to pay to the department an amount equal to the reduction as required in (b) of this subsection, the department shall issue an assessment of liability against the employer which shall be collected pursuant to the procedures for collection of assessments provided herein and in RCW 50.24.110.

(6) When an individual fails to repay an overpayment assessment that is due and fails to arrange for satisfactory repayment terms, the commissioner shall impose an interest penalty of one percent per month of the outstanding balance. Interest shall accrue immediately on overpayments assessed pursuant to RCW 50.20.070 and shall be imposed when the assessment becomes final. For any

other overpayment, interest shall accrue when the individual has missed two or more of ~~((their))~~ the individual's monthly payments either partially or in full. The interest penalty shall be used, first, to fully fund either social security number cross-match audits or other more effective activities that ensure that individuals are entitled to all amounts of benefits that they are paid and, second, to fund other detection and recovery of overpayment and collection activities ~~((and, during the 2001-2003 fiscal biennium, the cost of worker retraining programs at community and technical colleges as appropriated by the legislature))~~.

Sec. 27. RCW 50.04.206 and 1990 c 245 s 3 are each amended to read as follows:

The term "employment" shall not include service that is performed by a nonresident alien for the period he or she is temporarily present in the United States as a nonimmigrant under subparagraph (F), ~~(H)(ii)~~, (H)(iii), or (J) of section 101(a)(15) of the federal immigration and naturalization act, as amended, and that is performed to carry out the purpose specified in the applicable subparagraph of the federal immigration and naturalization act.

PART III - ADMINISTRATION

***Sec. 28.** RCW 50.20.140 and 1998 c 161 s 2 are each amended to read as follows:

(1) *An application for initial determination, a claim for waiting period, or a claim for benefits shall be filed in accordance with such rules as the commissioner may prescribe. An application for an initial determination may be made by any individual whether unemployed or not. Each employer shall post and maintain printed statements of such rules in places readily accessible to individuals in his or her employment and shall make available to each such individual at the time he or she becomes unemployed, a printed statement of such rules and such notices, instructions, and other material as the commissioner may by rule prescribe. Such printed material shall be supplied by the commissioner to each employer without cost to the employer.*

(2) *The term "application for initial determination" shall mean a request in writing, or by other means as determined by the commissioner, for an initial determination. The term "claim for waiting period" shall mean a certification, after the close of a given week, that the requirements stated herein for eligibility for waiting period have been met. The term "claim for benefits" shall mean a certification, after the close of a given week, that the requirements stated herein for eligibility for receipt of benefits have been met.*

(3) *A representative designated by the commissioner shall take the application for initial determination and for the claim for waiting period credits or for benefits. When an application for initial determination has been made, the employment security department shall promptly make an initial determination which shall be a statement of the applicant's base year wages, his or her weekly benefit amount, his or her maximum amount of benefits potentially payable, and his or her benefit year. Such determination shall fix the general conditions under which waiting period credit shall be granted and under which benefits shall be paid during any period of unemployment occurring within the benefit year fixed by such determination.*

(4) The legislature finds that the shift by the employment security department from in-person written applications for unemployment insurance benefits to call centers and internet applications has increased the potential for fraud. Therefore, the employment security department must require claimants filing initial and weekly claims telephonically or electronically to provide additional proof of identity, such as a valid driver's license, a valid identification card, or other similar proof specified in rule by the department.

*Sec. 28 was vetoed. See message at end of chapter.

NEW SECTION. Sec. 29. The employment security department shall:

(1) In consultation with an advisory committee equally representing business and labor, identify the programs funded by special administrative contributions under Title 50 RCW and report to the advisory committee the expenditures for these programs annually and cumulatively since enactment. Following its report to the advisory committee, the department shall report its findings and any recommendations to the appropriate committees of the legislature by December 1, 2003.

(2) Conduct a review of the type, rate, and causes of employer turnover in the unemployment compensation system, using unified business identifier information or other relevant data bases and methods. The department shall report its findings and any recommendations to the appropriate committees of the legislature by December 1, 2003.

(3) Conduct a study of the potential for year to year volatility, if any, in the rate classes to which employers in the array are assigned under RCW 50.29.025(2)(a)(ii). The department shall report its findings and any recommendations for minimizing the potential for year to year volatility to the appropriate committees of the legislature by December 1, 2003.

PART IV - MISCELLANEOUS

Sec. 30. RCW 50.20.043 and 1985 c 40 s 1 are each amended to read as follows:

No otherwise eligible individual shall be denied benefits for any week because the individual is in training with the approval of the commissioner, nor shall such individual be denied benefits with respect to any week in which the individual is satisfactorily progressing in a training program with the approval of the commissioner by reason of the application of RCW 50.20.010(~~((3))~~) (1)(c), (~~(50.20.015)~~) 50.20.080, or 50.22.020(1) relating to availability for work and active search for work, or failure to apply for or refusal to accept suitable work.

An individual who the commissioner determines to be a dislocated worker as defined by RCW 50.04.075 and who is satisfactorily progressing in a training program approved by the commissioner shall be considered to be in training with the approval of the commissioner.

Sec. 31. RCW 50.20.160 and 1990 c 245 s 4 are each amended to read as follows:

(1) A determination of amount of benefits potentially payable issued pursuant to the provisions of RCW 50.20.120 and 50.20.140 shall not serve as a basis for appeal but shall be subject to request by the claimant for reconsideration and/or for redetermination by the commissioner at any time within one year from the date of delivery or mailing of such determination, or

any redetermination thereof: PROVIDED, That in the absence of fraud or misrepresentation on the part of the claimant, any benefits paid prior to the date of any redetermination which reduces the amount of benefits payable shall not be subject to recovery under the provisions of RCW 50.20.190. A denial of a request to reconsider or a redetermination shall be furnished the claimant in writing and provide the basis for appeal under the provisions of RCW 50.32.020.

(2) A determination of denial of benefits issued under the provisions of RCW 50.20.180 shall become final, in absence of timely appeal therefrom: PROVIDED, That the commissioner may reconsider and redetermine such determinations at any time within one year from delivery or mailing to correct an error in identity, omission of fact, or misapplication of law with respect to the facts.

(3) A determination of allowance of benefits shall become final, in absence of a timely appeal therefrom: PROVIDED, That the commissioner may redetermine such allowance at any time within two years following the benefit year in which such allowance was made in order to recover any benefits improperly paid and for which recovery is provided under the provisions of RCW 50.20.190: AND PROVIDED FURTHER, That in the absence of fraud, misrepresentation, or nondisclosure, this provision or the provisions of RCW 50.20.190 shall not be construed so as to permit redetermination or recovery of an allowance of benefits which having been made after consideration of the provisions of RCW 50.20.010(~~((3))~~) (1)(c), or the provisions of RCW 50.20.050, 50.20.060, 50.20.080, or 50.20.090 has become final.

(4) A redetermination may be made at any time: (a) To conform to a final court decision applicable to either an initial determination or a determination of denial or allowance of benefits; (b) in the event of a back pay award or settlement affecting the allowance of benefits; or (c) in the case of fraud, misrepresentation, or willful nondisclosure. Written notice of any such redetermination shall be promptly given by mail or delivered to such interested parties as were notified of the initial determination or determination of denial or allowance of benefits and any new interested party or parties who, pursuant to such regulation as the commissioner may prescribe, would be an interested party.

Sec. 32. RCW 50.32.040 and 1989 c 175 s 117 are each amended to read as follows:

In any proceeding before an appeal tribunal involving a dispute of an individual's initial determination, all matters covered by such initial determination shall be deemed to be in issue irrespective of the particular ground or grounds set forth in the notice of appeal.

In any proceeding before an appeal tribunal involving a dispute of an individual's claim for waiting period credit or claim for benefits, all matters and provisions of this title relating to the individual's right to receive such credit or benefits for the period in question, including but not limited to the question and nature of the claimant's availability for work within the meaning of RCW 50.20.010(~~((3))~~) (1)(c) and 50.20.080, shall be deemed to be in issue irrespective of the particular ground or grounds set forth in the notice of appeal in single claimant cases. The claimant's availability for work shall be determined apart from all other matters.

In any proceeding before an appeal tribunal involving an individual's right to benefits, all parties shall be afforded an opportunity for hearing after not less than seven days' notice in accordance with RCW 34.05.434.

In any proceeding involving an appeal relating to benefit determinations or benefit claims, the appeal tribunal, after affording the parties reasonable opportunity for fair hearing, shall render its decision affirming, modifying, or setting aside the determination or decisions of the unemployment compensation division. The parties shall be duly notified of such appeal tribunal's decision together with its reasons therefor, which shall be deemed to be the final decision on the initial determination or the claim for waiting period credit or the claim for benefits unless, within thirty days after the date of notification or mailing, whichever is the earlier, of such decision, further appeal is perfected pursuant to the provisions of this title relating to review by the commissioner.

Sec. 33. RCW 28B.50.030 and 1997 c 367 s 13 are each amended to read as follows:

As used in this chapter, unless the context requires otherwise, the term:

(1) "System" shall mean the state system of community and technical colleges, which shall be a system of higher education.

(2) "Board" shall mean the work force training and education coordinating board.

(3) "College board" shall mean the state board for community and technical colleges created by this chapter.

(4) "Director" shall mean the administrative director for the state system of community and technical colleges.

(5) "District" shall mean any one of the community and technical college districts created by this chapter.

(6) "Board of trustees" shall mean the local community and technical college board of trustees established for each college district within the state.

(7) "Occupational education" shall mean that education or training that will prepare a student for employment that does not require a baccalaureate degree.

(8) "K-12 system" shall mean the public school program including kindergarten through the twelfth grade.

(9) "Common school board" shall mean a public school district board of directors.

(10) "Community college" shall include those higher education institutions that conduct education programs under RCW 28B.50.020.

(11) "Technical college" shall include those higher education institutions with the sole mission of conducting occupational education, basic skills, literacy programs, and offering on short notice, when appropriate, programs that meet specific industry needs. The programs of technical colleges shall include, but not be limited to, continuous enrollment, competency-based instruction, industry-experienced faculty, curriculum integrating vocational and basic skills education, and curriculum approved by representatives of employers and labor. For purposes of this chapter, technical colleges shall include Lake Washington Vocational-Technical Institute, Renton Vocational-Technical Institute, Bates Vocational-Technical Institute, Clover Park Vocational Institute, and Bellingham Vocational-Technical Institute.

(12) "Adult education" shall mean all education or instruction, including academic, vocational education or training, basic skills and literacy training, and

"occupational education" provided by public educational institutions, including common school districts for persons who are eighteen years of age and over or who hold a high school diploma or certificate. However, "adult education" shall not include academic education or instruction for persons under twenty-one years of age who do not hold a high school degree or diploma and who are attending a public high school for the sole purpose of obtaining a high school diploma or certificate, nor shall "adult education" include education or instruction provided by any four year public institution of higher education.

(13) "Dislocated forest product worker" shall mean a forest products worker who: (a)(i) Has been terminated or received notice of termination from employment and is unlikely to return to employment in the individual's principal occupation or previous industry because of a diminishing demand for his or her skills in that occupation or industry; or (ii) is self-employed and has been displaced from his or her business because of the diminishing demand for the ((business's)) business' services or goods; and (b) at the time of last separation from employment, resided in or was employed in a rural natural resources impact area.

(14) "Forest products worker" shall mean a worker in the forest products industries affected by the reduction of forest fiber enhancement, transportation, or production. The workers included within this definition shall be determined by the employment security department, but shall include workers employed in the industries assigned the major group standard industrial classification codes "24" and "26" and the industries involved in the harvesting and management of logs, transportation of logs and wood products, processing of wood products, and the manufacturing and distribution of wood processing and logging equipment. The commissioner may adopt rules further interpreting these definitions. For the purposes of this subsection, "standard industrial classification code" means the code identified in RCW 50.29.025(((6)(e))) (3).

(15) "Dislocated salmon fishing worker" means a finfish products worker who: (a)(i) Has been terminated or received notice of termination from employment and is unlikely to return to employment in the individual's principal occupation or previous industry because of a diminishing demand for his or her skills in that occupation or industry; or (ii) is self-employed and has been displaced from his or her business because of the diminishing demand for the business's services or goods; and (b) at the time of last separation from employment, resided in or was employed in a rural natural resources impact area.

(16) "Salmon fishing worker" means a worker in the finfish industry affected by 1994 or future salmon disasters. The workers included within this definition shall be determined by the employment security department, but shall include workers employed in the industries involved in the commercial and recreational harvesting of finfish including buying and processing finfish. The commissioner may adopt rules further interpreting these definitions.

(17) "Rural natural resources impact area" means:

(a) A nonmetropolitan county, as defined by the 1990 decennial census, that meets three of the five criteria set forth in subsection (18) of this section;

(b) A nonmetropolitan county with a population of less than forty thousand in the 1990 decennial census, that meets two of the five criteria as set forth in subsection (18) of this section; or

(c) A nonurbanized area, as defined by the 1990 decennial census, that is located in a metropolitan county that meets three of the five criteria set forth in subsection (18) of this section.

(18) For the purposes of designating rural natural resources impact areas, the following criteria shall be considered:

(a) A lumber and wood products employment location quotient at or above the state average;

(b) A commercial salmon fishing employment location quotient at or above the state average;

(c) Projected or actual direct lumber and wood products job losses of one hundred positions or more;

(d) Projected or actual direct commercial salmon fishing job losses of one hundred positions or more; and

(e) An unemployment rate twenty percent or more above the state average.

The counties that meet these criteria shall be determined by the employment security department for the most recent year for which data is available. For the purposes of administration of programs under this chapter, the United States post office five-digit zip code delivery areas will be used to determine residence status for eligibility purposes. For the purpose of this definition, a zip code delivery area of which any part is ten miles or more from an urbanized area is considered nonurbanized. A zip code totally surrounded by zip codes qualifying as nonurbanized under this definition is also considered nonurbanized. The office of financial management shall make available a zip code listing of the areas to all agencies and organizations providing services under this chapter.

NEW SECTION. Sec. 34. The commissioner of the employment security department may adopt such rules as are necessary to implement this act.

NEW SECTION. Sec. 35. The following acts or parts of acts are each repealed:

(1) RCW 50.20.015 (Person with marginal labor force attachment) and 1986 c 106 s 1, 1985 c 285 s 3, & 1984 c 205 s 9;

(2) RCW 50.20.045 (Employee separated from employment due to wage garnishment not disqualified) and 1969 ex.s. c 264 s 35;

(3) RCW 50.20.125 (Maximum amount payable weekly) and 2002 c 149 s 3; and

(4) RCW 50.29.045 (Contribution rate—Insolvency surcharge) and 2002 c 149 s 9.

NEW SECTION. Sec. 36. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state.

NEW SECTION. Sec. 37. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 38. Section 29 of this act expires January 1, 2004.

NEW SECTION. Sec. 39. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the Senate June 11, 2003.

Passed by the House June 11, 2003.

Approved by the Governor June 20, 2003, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State June 20, 2003.

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

"I am returning herewith, without my approval as to section 28 Second Engrossed Senate Bill No. 6097 entitled:

"AN ACT Relating to revising the unemployment compensation system through creating forty rate classes for determining employer contribution rates;"

This bill makes substantive and historic changes to our unemployment insurance (UI) system.

Section 28 would have required claimants who file initial and weekly claims electronically or telephonically to provide additional proof of identity, such as a driver's license. I have vetoed this section because it nullifies all the advancements and efficiencies gained with TeleCenters and Internet filing. This requirement would also place a burden on individuals who live in rural areas not located near one of the Work Source offices. The Department of Employment Security uses an extensive process to minimize the possibility of fraudulent claims. If there is any doubt regarding identity, the department may issue an affidavit of identity to the claimant that must be notarized before any benefits are paid. The department may also require an individual to appear in person, if necessary.

I am not vetoing section 4, which establishes a list of personal and work-related reasons that an individual may quit for "good cause" and receive UI benefits while searching for other work. However, without the benefit of experience, I appreciate concerns expressed about the unforeseeable nature of some of the practical effects of these amendments. Accordingly, I hereby instruct the Commissioner of the Department of Employment Security to track all impacts associated with the amendments in section 4, and to report her findings to me by June 2005.

For these reasons, I have vetoed section 28 of Second Engrossed Senate Bill No. 6097.

With the exception of section 28, Second Engrossed Senate Bill No. 6097 is approved."

AUTHENTICATION

I, Dennis W. Cooper, Code Reviser of the State of Washington, certify that, with the exception of such corrections as I have made in accordance with the powers vested in me by RCW 44.20.060, the laws published in this volume are a true and correct reproduction of the copies of the enrolled laws of the 2003 regular session (58th Legislature), chapters 282 through 413, the 2003 1st special session, chapters 1 through 29, and the 2003 2nd special session, chapters 1 through 4, respectively, as certified and transmitted to the Statute Law Committee by the Secretary of State under RCW 44.20.020.

IN TESTIMONY WHEREOF, I have hereunto set my hand at Olympia, Washington, this 14th day of July, 2003.

A handwritten signature in black ink that reads "Dennis W. Cooper". The signature is written in a cursive style with a large initial "D" and "C".

DENNIS W. COOPER
Code Reviser

**CONSTITUTIONAL
AMENDMENTS**

FOR NOVEMBER 2003 BALLOT

CONSTITUTIONAL AMDTS.

PROPOSED CONSTITUTIONAL AMENDMENTS, 2003 HJR 4206

PROPOSED CONSTITUTIONAL AMENDMENT
ADOPTED AT THE 2003 REGULAR SESSION
FOR SUBMISSION TO THE VOTERS
AT THE STATE GENERAL ELECTION, NOVEMBER 2003

HOUSE JOINT RESOLUTION 4206

BE IT RESOLVED, BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF WASHINGTON, IN LEGISLATIVE SESSION ASSEMBLED:

THAT, At the next general election to be held in this state the secretary of state shall submit to the qualified voters of the state for their approval and ratification, or rejection, an amendment to Article II, section 15 of the Constitution of the state of Washington to read as follows:

Article II, section 15. Such vacancies as may occur in either house of the legislature or in any partisan county elective office shall be filled by appointment by the ~~((board of))~~ county ~~((commissioners))~~ legislative authority of the county in which the vacancy occurs: *Provided*, That the person appointed to fill the vacancy must be from the same legislative district, county, or county commissioner or council district and the same political party as the legislator or partisan county elective officer whose office has been vacated, and shall be one of three persons who shall be nominated by the county central committee of that party, and in case a majority of ~~((said))~~ the members of the county ~~((commissioners))~~ legislative authority do not agree upon the appointment within sixty days after the vacancy occurs, the governor shall within thirty days thereafter, and from the list of nominees provided for herein, appoint a person who shall be from the same legislative district, county, or county commissioner or council district and of the same political party as the legislator or partisan county elective officer whose office has been vacated, and the person so appointed shall hold office until his or her successor is elected at the next general election, and ~~((shall have))~~ has qualified: *Provided*, That in case of a vacancy occurring after the general election in a year that the office appears on the ballot and before the start of the next term, the term of the successor may commence once he or she has qualified and shall continue through the term for which he or she was elected: *Provided*, That in case of a vacancy occurring in the office of joint senator, or joint representative, the vacancy shall be filled from a list of three nominees selected by the state central committee, by appointment by the joint action of the boards of county ~~((commissioners))~~ legislative authorities of the counties composing the joint senatorial or joint representative district, the person appointed to fill the vacancy must be from the same legislative district and of the same political party as the legislator whose office has been vacated, and in case a majority of ~~((said))~~ the members of the county ~~((commissioners))~~ legislative authority do not agree upon the appointment within sixty days after the vacancy occurs, the governor shall within thirty days thereafter, and from the list of nominees provided for herein, appoint a person who shall be from the same legislative district and of the same political party as the legislator whose office has been vacated.

HJR 4206 PROPOSED CONSTITUTIONAL AMENDMENTS, 2003

BE IT FURTHER RESOLVED, That the secretary of state shall cause notice of this constitutional amendment to be published at least four times during the four weeks next preceding the election in every legal newspaper in the state.

Passed the House April 22, 2003

Passed the Senate April 17, 2003

Filed in the Office of Secretary of State April 27, 2003

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"E1" Denotes 2003 1st special session

"PV" Denotes partial veto by Governor [2821]

"E2" Denotes 2003 2nd special session

BILL NO. TO CHAPTER NO. OF 2003 STATUTES

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"E1" Denotes 2003 1st special session

"PV" Denotes partial veto by Governor [2822]

"E2" Denotes 2003 2nd special session

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"E1" Denotes 2003 1st special session

"PV" Denotes partial veto by Governor [2823]

"E2" Denotes 2003 2nd special session

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SHB	1605	.104	ESHB	1852	278	
SHB	1609	.98	ESHB	1853	83	
HB	1612	.107	SHB	1854	138	
SHB	1619	.103	SHB	1855	108	

“E1” Denotes 2003 1st special session

“PV” Denotes partial veto by Governor [2824]

“E2” Denotes 2003 2nd special session

BILL NO. TO CHAPTER NO. OF 2003 STATUTES

Number	Chapter Number Laws of 2003	Number	Chapter Number Laws of 2003
HB	1858	343	
HB	1878	105	
HB	1882	139	
2SHB	1887	174	
ESHB	1904	230	
HB	1905	121	
SHB	1909	131	
SHB	1930	25	
ESHB	1933	321	
HB	1937	141	
SHB	1943	114	
HB	1954	247	
HB	1972	336	
2SHB	1973	153	
EHB	1977	5	
HB	1980	383	
HB	1993	186	
HB	2001	344	
SHB	2007	137	
2SHB	2012	133	
SHB	2027	113	
EHB	2030	79	
SHB	2033	194	
SHB	2038	342	
SHB	2039	80	
SHB	2040	341	
ESHB	2056	300	
HB	2063	315	
EHB	2064	81	
HB	2065	370	PV
EHB	2067	307	
HB	2073	240	
ESHB	2076	130	
ESHB	2088	394	
SHB	2094	219	
SHB	2111	132	
HB	2113	319	
SHB	2118	154	
SHB	2132	323	
EHB	2146	339	
2ESHB	2151	8	E1
SHB	2172	340	
HB	2183	145	
HB	2186	349	
SHB	2192	27	E1
SHB	2196	206	
SHB	2197	92	
SHB	2198	93	
SHB	2202	400	
SHB	2215	368	
HB	2223	324	
ESHB	2228	364	
ESHB	2231	361	PV
HB	2242	9	E1
HB	2252	10	E1
EHB	2254	11	E1
ESHB	2257	28	E1
HB	2266	12	E1
EHB	2269	13	E1
HB	2285	14	E1
HB	2294	1	E2

“E1” Denotes 2003 1st special session

“PV” Denotes partial veto by Governor [2825] “E2” Denotes 2003 2nd special session

RCW SECTIONS AFFECTED BY 2003 STATUTES

LEGEND				RCW	CH.	SEC.	
ADD	=	Add a new section		4.44.280	AMD	406	15
AMD	=	Amend existing law		4.44.290	AMD	406	16
DECD	=	Decodify existing law		4.44.300	AMD	406	17
RECD	=	Recodify existing law		4.44.310	AMD	406	18
REEN	=	Reenact existing law		4.44.360	AMD	406	19
REMD	=	Reenact and amend		4.44.370	AMD	406	20
REP	=	Repeal existing law		4.44.380	AMD	406	21
				4.44.390	AMD	406	22
				4.44.400	REP	406	28
1.16	ADD	68	1	4.44.420	AMD	406	23
1.16.050	AMD	68	2	4.44.440	AMD	406	24
2.08.062	AMD	96	1	4.44.450	AMD	406	25
2.08.064	AMD	96	2	4.44.460	AMD	406	26
2.08.180	AMD	247	1	4.44.480	AMD	406	27
2.48.180	AMD	53	2	4.56.100	AMD	379	23
2.56	ADD	379	21	4.64.030	AMD	43	1
2.56.180	AMD	225	1	6.27.010	AMD	222	16
3.34.010	AMD	97	1	6.27.020	AMD	222	1
3.34.020	AMD	97	2	6.27.040	REMD	222	2
3.34.100	AMD	97	3	6.27.060	AMD	222	17
3.38.020	AMD	97	4	6.27.070	AMD	222	3
3.38.040	AMD	97	5	6.27.100	AMD	222	4
3.50.440	AMD	53	3	6.27.130	AMD	222	5
3.62.060	AMD	222	15	6.27.140	AMD	222	6
3.62.090	AMD	380	1	6.27.160	AMD	222	7
3.66.020	AMD	27	1	6.27.190	AMD	222	8
3.66.040	AMD	27	2	6.27.200	AMD	222	9
3.66.060	AMD	39	1	6.27.250	AMD	222	10
4.16	ADD	80	1	6.27.265	AMD	222	11
4.24	ADD	11	1	6.27.320	AMD	222	12
4.24	ADD	219	2	6.27.340	AMD	222	13
4.24.210	AMD	16	2	6.27.350	AMD	222	14
4.24.210	AMD	39	2	6.36.035	AMD	43	2
4.24.300	AMD	256	1	7.40.230	AMD	53	5
4.24.320	AMD	53	4	7.68	ADD	266	2
4.24.550	AMD	217	1	7.70	ADD	283	30
4.44.020	AMD	406	1	7.70.065	AMD	283	29
4.44.025	AMD	406	2	7.80.120	AMD	337	4
4.44.070	AMD	406	3	7.80.120	AMD	365	3
4.44.120	AMD	406	4	7.84.020	AMD	39	3
4.44.140	AMD	406	5	7.84.040	AMD	39	4
4.44.150	AMD	406	6	8.26.020	AMD	254	1
4.44.180	AMD	406	7	8.26.035	AMD	357	1
4.44.190	AMD	406	8	9.05.030	AMD	53	6
4.44.210	AMD	406	9	9.05.060	AMD	53	7
4.44.220	AMD	406	10	9.08	ADD	53	10-13
4.44.230	AMD	406	11	9.08.065	AMD	53	8
4.44.240	AMD	406	12	9.08.070	AMD	53	9
4.44.250	AMD	406	13	9.16.080	AMD	53	14
4.44.260	AMD	406	14	9.16.090	REP	53	421

RCW SECTIONS AFFECTED BY 2003 STATUTES

RCW		CH.	SEC.	RCW		CH.	SEC.
9.18.120	AMD	53	15	9.94.010	AMD	53	53
9.18.130	AMD	53	16	9.94.020	REP	53	421
9.18.140	REP	53	421	9.94.030	AMD	53	54
9.24.020	AMD	53	17	9.94A	ADD	379	2,3,17
9.24.030	AMD	53	18				22,24
9.24.050	AMD	53	19	9.94A.030	REMD	53	55
9.26A	ADD	53	21	9.94A.515	REMD	52	3
9.26A.110	AMD	53	20	9.94A.515	REMD	52	4
9.35.020	AMD	53	22	9.94A.515	REMD	53	56
9.40	ADD	53	24	9.94A.515	REMD	119	7
9.40.100	AMD	53	23	9.94A.515	REMD	119	8
9.40.120	AMD	53	25	9.94A.515	REMD	250	13
9.41.040	AMD	53	26	9.94A.515	REMD	250	14
9.41.042	AMD	53	27	9.94A.515	REMD	267	2
9.41.050	AMD	53	28	9.94A.515	REMD	267	3
9.41.098	AMD	39	5	9.94A.515	REMD	283	32
9.45.020	AMD	53	29	9.94A.515	REMD	283	33
9.45.124	AMD	53	30	9.94A.515	REMD	335	4
9.45.126	AMD	53	31	9.94A.515	REMD	335	5
9.45.210	AMD	53	32	9.94A.518	AMD	53	57
9.45.220	AMD	53	33	9.94A.533	AMD	53	58
9.45.230	REP	53	421	9.94A.535	AMD	267	4
9.46.071	AMD	75	1	9.94A.545	AMD	379	8
9.46.155	AMD	53	34	9.94A.550	AMD	53	59
9.46.215	AMD	53	35	9.94A.605	AMD	53	60
9.47.090	AMD	53	36	9.94A.610	AMD	53	61
9.47.120	AMD	53	37	9.94A.637	AMD	379	19
9.61.160	AMD	53	38	9.94A.700	AMD	379	4
9.61.170	REP	53	421	9.94A.705	AMD	379	5
9.61.180	REP	53	421	9.94A.715	AMD	379	6
9.61.230	AMD	53	39	9.94A.720	AMD	379	7
9.62.010	AMD	53	40	9.94A.728	REMD	379	1
9.68.060	AMD	53	41	9.94A.731	AMD	254	2
9.68A.090	AMD	26	1	9.94A.734	AMD	53	62
9.68A.090	AMD	53	42	9.94A.750	AMD	379	15
9.68A.140	REP	53	421	9.94A.753	REMD	379	16
9.68A.150	AMD	53	43	9.94A.760	AMD	379	14
9.68A.160	REP	53	421	9.94A.780	AMD	379	18
9.81.020	AMD	53	44	9.95.017	AMD	218	2
9.81.030	AMD	53	45	9.95.055	AMD	218	3
9.81.100	REP	111	2404	9.95.070	AMD	218	4
9.82.010	AMD	53	46	9.95.110	AMD	218	7
9.86.020	AMD	53	47	9.95.120	AMD	218	5
9.86.030	AMD	53	48	9.95.240	AMD	66	1
9.86.050	REP	53	421	9.95.435	AMD	218	1
9.91	ADD	53	50,51	9.95.440	AMD	218	6
9.91	ADD	365	2	9A.16	ADD	219	1
9.91.140	AMD	53	49	9A.20.021	AMD	53	63
9.91.170	AMD	53	52	9A.20.021	AMD	288	7
9.92.066	AMD	66	2	9A.32.050	AMD	3	2

RCW SECTIONS AFFECTED BY 2003 STATUTES

RCW		CH.	SEC.	RCW		CH.	SEC.
9A.36.021	AMD	53	64	10.79.040	AMD	53	95
9A.40	ADD	267	1	10.79.045	REP	53	421
9A.40.030	AMD	53	65	10.95.020	AMD	53	96
9A.40.070	AMD	53	66	10.98	ADD	104	1
9A.44.100	AMD	53	67				3-6
9A.44.115	AMD	213	1	10.98.160	AMD	104	2
9A.44.130	AMD	53	68	10.105.900	AMD	39	6
9A.44.130	AMD	215	1	11.68.090	AMD	254	3
9A.46.020	AMD	53	69	11.94	ADD	283	28
9A.46.110	REMD	53	70	11.94.010	AMD	283	27
9A.48.090	AMD	53	71	11.97.010	AMD	254	4
9A.56	ADD	53	73,75	11.97.900	AMD	254	5
9A.56	ADD	119	1,2	13.24	ADD	180	1,2
9A.56.070	AMD	53	72	13.24.010	REP	180	3
9A.56.080	AMD	53	74	13.24.020	REP	180	3
9A.56.085	AMD	53	76	13.34.030	AMD	227	2
9A.56.096	AMD	53	77	13.34.115	AMD	228	1
9A.56.280	AMD	52	1	13.34.130	AMD	227	3
9A.56.280	AMD	119	3	13.34.136	AMD	227	4
9A.56.290	AMD	52	2	13.34.138	AMD	227	5
9A.56.290	AMD	119	4	13.34.145	REMD	227	6
9A.60	ADD	53	79	13.34.200	AMD	227	7
9A.60	ADD	283	31	13.34.210	AMD	227	8
9A.60.020	AMD	119	5	13.34.260	AMD	226	2
9A.60.040	AMD	53	78	13.40	ADD	378	4.5
9A.64.020	AMD	53	80	13.40.030	AMD	207	5
9A.64.030	AMD	53	81	13.40.0357	REMD	53	97
9A.76.023	AMD	53	82	13.40.0357	REMD	335	6
9A.76.070	AMD	53	83	13.40.0357	REMD	378	2
9A.76.080	AMD	53	84	13.40.070	AMD	53	98
9A.76.200	AMD	269	1	13.40.160	AMD	53	99
9A.82	ADD	53	87	13.40.160	AMD	378	3
9A.82.010	REMD	53	85	13.40.165	REMD	378	6
9A.82.010	REMD	113	3	13.40.193	AMD	53	100
9A.82.010	REMD	119	6	13.40.265	AMD	53	101
9A.82.050	AMD	53	86	13.40.430	AMD	207	13
9A.82.060	AMD	53	88	13.40.460	AMD	229	1
9A.82.080	AMD	53	89	13.50.100	AMD	105	2
9A.82.090	AMD	267	5	14.20.020	AMD	53	102
9A.82.100	AMD	267	6	15.17.243	AMD	14	1
9A.82.120	AMD	267	7	15.21.060	AMD	53	103
9A.82.160	AMD	53	90	15.24.200	AMD	53	104
9A.84.010	AMD	53	91	15.26.300	AMD	53	105
9A.88.010	AMD	53	92	15.28	ADD	396	16,17
10.05.120	AMD	220	1				21-23
10.05.140	AMD	220	2	15.28.020	AMD	396	13
10.58	ADD	179	1	15.28.040	AMD	396	14
10.66.090	AMD	53	93	15.28.050	AMD	396	15
10.73.170	AMD	100	1	15.28.060	AMD	396	18
10.79.015	AMD	53	94	15.28.070	AMD	396	19

RCW SECTIONS AFFECTED BY 2003 STATUTES

RCW		CH.	SEC.	RCW		CH.	SEC.
15.28.080	AMD	396	20	16.57.010	AMD	326	2
15.30.250	AMD	53	106	16.57.015	AMD	326	3
15.44	ADD	396	25	16.57.020	AMD	326	4
			28-31	16.57.023	AMD	326	5
15.44.020	AMD	396	24	16.57.025	AMD	326	6
15.44.033	AMD	396	26	16.57.030	AMD	326	7
15.44.035	AMD	396	27	16.57.040	AMD	326	8
15.44.150	AMD	396	32	16.57.050	AMD	326	9
15.49	ADD	308	1	16.57.080	AMD	326	10
15.54.340	AMD	15	1	16.57.090	AMD	326	11
15.58	ADD	212	5,6,8	16.57.100	AMD	326	12
15.58.030	AMD	212	1	16.57.120	AMD	326	13
15.58.040	AMD	212	2	16.57.130	AMD	326	14
15.58.150	AMD	212	3	16.57.140	AMD	326	15
15.58.210	AMD	212	4	16.57.150	AMD	326	16
15.58.233	AMD	212	7	16.57.160	AMD	326	18
15.58.460	AMD	212	9	16.57.165	AMD	326	19
15.58.465	AMD	212	10	16.57.170	AMD	326	20
15.58.470	AMD	212	11	16.57.180	AMD	326	21
15.60.055	AMD	53	107	16.57.200	AMD	326	22
15.61.050	AMD	53	108	16.57.210	AMD	326	23
15.65	ADD	396	10-12	16.57.220	AMD	326	24
15.65.220	AMD	396	9	16.57.230	AMD	326	26
15.65.245	REP	396	37	16.57.240	AMD	326	27
15.66	ADD	396	5,6	16.57.260	AMD	326	30
15.66.030	AMD	396	1	16.57.270	AMD	326	32
15.66.110	AMD	396	4	16.57.275	AMD	326	33
15.66.115	REP	396	7	16.57.280	AMD	326	34
15.66.140	AMD	396	2	16.57.290	AMD	326	35
15.66.185	AMD	396	3	16.57.300	AMD	326	36
15.80.650	AMD	53	109	16.57.310	AMD	326	38
15.85.020	AMD	39	7	16.57.320	AMD	326	39
15.85.060	AMD	39	8	16.57.330	AMD	326	40
15.88	ADD	396	42,43	16.57.340	AMD	326	41
15.88.030	AMD	396	38	16.57.360	AMD	326	42
15.88.040	AMD	396	39	16.57.370	AMD	326	43
15.88.050	AMD	396	40	16.57.380	REP	326	92
15.88.100	AMD	396	41	16.57.400	AMD	326	44
15.88.180	AMD	396	44	16.57.410	AMD	326	45
16.36.005	AMD	39	9	16.58.020	AMD	326	46
16.49	ADD	397	1	16.58.030	AMD	326	47
16.52.015	AMD	53	110	16.58.040	AMD	326	48
16.52.190	AMD	53	111	16.58.050	AMD	326	49
16.52.193	AMD	53	112	16.58.060	AMD	326	50
16.52.195	REP	53	421	16.58.070	AMD	326	51
16.52.200	AMD	53	113	16.58.080	AMD	326	52
16.52.230	AMD	53	114	16.58.095	AMD	326	53
16.57	ADD	326	17,25	16.58.100	AMD	326	54
			28,29	16.58.110	AMD	326	55
			31,37	16.58.130	AMD	326	56

RCW SECTIONS AFFECTED BY 2003 STATUTES

RCW		CH.	SEC.	RCW		CH.	SEC.
16.58.140	AMD	326	57	18.04.370	AMD	53	120
16.58.150	AMD	326	58	18.04.370	AMD	290	5
16.58.160	AMD	326	59	18.04.390	AMD	290	4
16.58.170	AMD	53	115	18.06.130	AMD	53	121
16.58.170	AMD	326	60	18.06.140	AMD	53	122
16.65	ADD	326	61	18.06.150	REP	53	421
16.65.010	AMD	326	62	18.08.460	AMD	53	123
16.65.015	AMD	326	63	18.16	ADD	400	1
16.65.020	AMD	326	64	18.16.020	AMD	400	2
16.65.030	AMD	326	65	18.16.070	AMD	400	3
16.65.037	AMD	326	66	18.16.090	AMD	400	4
16.65.040	AMD	326	67	18.16.100	AMD	400	5
16.65.042	AMD	326	68	18.20	ADD	231	7,11
16.65.050	AMD	326	69	18.20.020	AMD	231	2
16.65.080	AMD	326	70	18.20.030	AMD	231	3
16.65.090	AMD	326	71	18.20.050	AMD	231	4
16.65.100	AMD	326	72	18.20.110	AMD	280	1
16.65.110	REP	326	92	18.20.125	AMD	231	5
16.65.140	AMD	326	73	18.20.190	AMD	231	6
16.65.170	AMD	326	74	18.27.090	AMD	399	401
16.65.190	AMD	326	75	18.29.050	AMD	257	1
16.65.200	AMD	326	76	18.32.030	AMD	282	1
16.65.235	AMD	326	77	18.32.215	AMD	57	2
16.65.260	AMD	326	78	18.32.675	AMD	53	124
16.65.270	AMD	326	79	18.32.745	AMD	53	125
16.65.280	AMD	326	80	18.32.755	AMD	53	126
16.65.300	AMD	326	81	18.39.215	AMD	53	127
16.65.340	AMD	326	82	18.39.217	AMD	53	128
16.65.350	AMD	326	83	18.39.220	AMD	53	129
16.65.380	AMD	326	84	18.39.231	AMD	53	130
16.65.390	AMD	326	85	18.51	ADD	258	9
16.65.400	AMD	326	86	18.53.010	AMD	142	1
16.65.420	AMD	326	87	18.53.140	AMD	142	2
16.65.422	REP	326	92	18.57.160	AMD	53	131
16.65.423	REP	326	92	18.64.045	AMD	53	132
16.65.424	AMD	326	88	18.64.046	AMD	53	133
16.65.440	AMD	53	116	18.64.047	AMD	53	134
16.65.440	AMD	326	89	18.64.245	REMD	53	135
16.65.445	AMD	326	90	18.64.246	AMD	53	136
16.67	ADD	396	34-36	18.64.247	REP	53	421
16.67.040	AMD	396	33	18.64.270	AMD	53	137
17.10.350	AMD	53	117	18.71.040	AMD	275	1
17.21.310	AMD	53	118	18.71.190	AMD	53	138
17.24	ADD	314	8	18.79	ADD	258	1-5
17.24.100	AMD	53	119	18.79.040	AMD	140	1
17.24.171	AMD	314	6	18.79.240	AMD	258	6
17.26.020	AMD	39	10	18.79.260	AMD	140	2
18.04.195	AMD	290	1	18.85	ADD	201	2
18.04.215	AMD	290	2	18.85.010	AMD	201	1
18.04.295	AMD	290	3	18.88A.140	AMD	140	3

RCW SECTIONS AFFECTED BY 2003 STATUTES

RCW		CH.	SEC.	RCW		CH.	SEC.
18.88A.200	AMD	140	4	19.85.020	AMD	166	1
18.88A.210	AMD	140	5	19.86.145	AMD	53	150
18.88A.230	AMD	140	6	19.100.210	AMD	53	151
18.92.230	AMD	53	139	19.105.480	AMD	53	152
18.106.010	AMD	399	102	19.105.520	AMD	53	153
18.106.070	AMD	399	801	19.110	ADD	53	156
18.106.150	AMD	399	402	19.110.120	AMD	53	154
18.130.040	REMD	258	7	19.110.160	AMD	53	155
18.130.040	REMD	275	2	19.116.080	AMD	53	157
18.130.075	AMD	53	140	19.126.010	AMD	59	1
18.130.190	AMD	53	141	19.126.020	AMD	59	2
18.160	ADD	74	2	19.138.140	AMD	38	1
18.160.030	AMD	74	1	19.146.050	AMD	53	158
18.220	ADD	292	2	19.146.110	AMD	53	159
18.220.060	AMD	292	1	19.158.020	AMD	39	12
18.225	ADD	204	1	19.158.160	AMD	53	160
18.225.090	AMD	108	1	19.190	ADD	137	3,4
19	ADD	287	1-41	19.190.010	AMD	137	2
19.09.275	AMD	53	142	19.190.040	AMD	137	5
19.16.100	REMD	203	1	19.192	ADD	89	2
19.25.020	AMD	53	143	19.220.010	AMD	268	1
19.25.030	AMD	53	144	20.01.010	AMD	395	1
19.25.040	AMD	53	145	20.01.130	AMD	395	2
19.27.031	AMD	291	2	20.01.140	AMD	395	3
19.27.080	AMD	291	3	20.01.211	AMD	395	4
19.27.110	AMD	291	4	20.01.240	AMD	395	5
19.27.490	AMD	39	11	20.01.320	AMD	395	6
19.28	ADD	399	602	20.01.410	AMD	395	7
19.28.006	AMD	399	101	20.01.460	AMD	395	8
19.28.091	AMD	242	1	20.01.482	AMD	53	161
19.28.091	AMD	399	301	20.01.490	AMD	53	162
19.28.101	AMD	399	201	20.01.490	AMD	395	9
19.28.141	AMD	399	202	20.01.610	AMD	395	10
19.28.191	AMD	211	1	21.20.110	AMD	288	4
19.28.191	AMD	399	601	21.20.390	AMD	288	5
19.28.261	AMD	399	302	21.20.395	AMD	288	6
19.28.351	AMD	25 E1	910	21.20.400	AMD	53	163
19.28.371	AMD	78	1	21.20.400	AMD	288	3
19.48.110	AMD	53	146	21.30.140	AMD	53	164
19.68.010	AMD	53	147	21.35.005	AMD	118	1
19.76	ADD	53	149	22.09.660	AMD	13	1
19.76.110	AMD	53	148	23.86.080	AMD	252	1
19.77	ADD	34	4	23B.01	ADD	35	1
19.77.010	AMD	34	1	23B.07.260	AMD	35	2
19.77.020	AMD	34	2	23B.10.020	AMD	35	3
19.77.050	AMD	34	3	23B.10.030	AMD	35	4
19.77.110	REP	34	8	23B.10.040	AMD	35	5
19.77.140	AMD	34	5	23B.11	ADD	35	7
19.77.150	AMD	34	6	23B.11.030	AMD	35	6
19.77.160	AMD	34	7	23B.12.020	AMD	35	8

RCW SECTIONS AFFECTED BY 2003 STATUTES

RCW		CH.	SEC.	RCW		CH.	SEC.
23B.13.020	AMD	35	9	28B.15.031	AMD	232	2
23B.14.020	AMD	35	10	28B.15.066	AMD	232	3
24.06.465	AMD	53	165	28B.15.067	AMD	232	4
26.04.210	AMD	53	166	28B.15.069	AMD	232	5
26.04.230	REP	53	421	28B.15.100	AMD	232	6
26.10	ADD	105	1,6,7	28B.15.558	AMD	160	2
26.10.030	AMD	105	3	28B.15.600	AMD	319	1
26.44.030	REMD	207	4	28B.20.285	AMD	403	10
26.50	ADD	105	4	28B.20.289	AMD	403	11
28A.160	ADD	64	1-3	28B.20.320	AMD	53	174
28A.210	ADD	172	2	28B.20.322	REP	53	421
28A.210.280	AMD	172	1	28B.20.324	REP	53	421
28A.225.170	AMD	411	1	28B.50	ADD	128	3
28A.225.225	AMD	36	1	28B.50.030	AMD	4 E2	33
28A.225.270	AMD	36	2	28B.50.090	AMD	130	6
28A.230.010	AMD	49	1	28B.50.465	AMD	20 E1	3
28A.230.120	AMD	234	1	28B.50.468	AMD	20 E1	4
28A.230.130	AMD	49	2	28B.50.837	AMD	129	2
28A.300	ADD	22	2,3	28B.50.839	AMD	129	1
28A.305.210	AMD	25 E1	911	28B.80	ADD	8 E1	2
28A.315.195	AMD	413	2	28B.80	ADD	130	2
28A.315.205	AMD	413	1	28B.80.330	AMD	130	3
28A.400.205	AMD	20 E1	1	28B.80.340	AMD	130	4
28A.400.206	AMD	20 E1	2	28B.80.610	AMD	130	5
28A.405.040	AMD	53	167	28B.80.805	AMD	159	1
28A.405.050	REP	53	421	28B.80.806	AMD	159	2
28A.410.200	AMD	22 E1	1	28B.80.807	AMD	159	3
28A.500.030	AMD	25 E1	912	28B.85.030	AMD	53	175
28A.630	ADD	133	2	28B.85.110	REP	53	421
28A.635.050	AMD	53	168	28B.101.005	AMD	233	1
28A.635.090	AMD	53	169	28B.101.010	AMD	233	2
28A.635.100	AMD	53	170	28B.101.020	AMD	233	3
28A.635.120	REP	53	421	28B.101.040	AMD	233	4
28A.660.020	AMD	410	1	28B.115.070	AMD	278	3
28A.660.030	AMD	410	2	28B.115.090	AMD	278	4
28A.660.050	AMD	410	3	28B.119.010	AMD	233	5
28B	ADD	18 E1	1-15	28B.125.005	REP	278	5
28B	ADD	19	1-7	28B.125.010	REP	278	5
			9	28B.125.020	REP	278	5
28B.07.050	AMD	84	1	28B.125.030	REP	278	5
28B.10	ADD	407	1	28C.18	ADD	278	2
28B.10.022	AMD	6	1	29.01.005	RECD	111	2401
28B.10.115	AMD	82	1	29.01.005	REEN	111	101
28B.10.570	AMD	53	171	29.01.006	AMD	111	102
28B.10.571	AMD	53	172	29.01.006	RECD	111	2401
28B.10.572	AMD	53	173	29.01.008	AMD	111	103
28B.10.573	REP	53	421	29.01.008	RECD	111	2401
28B.10.801	AMD	19	11	29.01.010	REP	111	2404
28B.15.012	AMD	95	1	29.01.020	REP	111	2404
28B.15.0139	AMD	159	4	29.01.030	REP	111	2404

“E1” Denotes 2003 1st special session

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“E2” Denotes 2003 2nd special session

RCW SECTIONS AFFECTED BY 2003 STATUTES

RCW		CH.	SEC.	RCW		CH.	SEC.
29.01.040	REP	111	2404	29.01.155	REEN	111	127
29.01.042	RECD	111	2401	29.01.160	RECD	111	2401
29.01.042	REEN	111	104	29.01.160	REEN	111	128
29.01.043	AMD	111	105	29.01.170	AMD	111	129
29.01.043	RECD	111	2401	29.01.170	RECD	111	2401
29.01.045	AMD	111	106	29.01.180	AMD	111	130
29.01.045	RECD	111	2401	29.01.180	RECD	111	2401
29.01.047	RECD	111	2401	29.01.200	RECD	111	2401
29.01.047	REEN	111	107	29.01.200	REEN	111	131
29.01.050	RECD	111	2401	29.04	ADD	48	1
29.01.050	REEN	111	108	29.04	ADD	109	1
29.01.055	AMD	111	109	29.04.001	AMD	111	132
29.01.055	RECD	111	2401	29.04.001	RECD	111	2401
29.01.060	RECD	111	2401	29.04.010	AMD	111	133
29.01.060	REEN	111	110	29.04.010	RECD	111	2401
29.01.065	RECD	111	2401	29.04.020	AMD	111	134
29.01.065	REEN	111	111	29.04.020	RECD	111	2401
29.01.068	RECD	111	2401	29.04.025	RECD	111	2401
29.01.068	REEN	111	112	29.04.025	REEN	111	136
29.01.070	RECD	111	2401	29.04.030	RECD	111	2401
29.01.070	REEN	111	113	29.04.030	REEN	111	1701
29.01.080	RECD	111	2401	29.04.035	AMD	111	802
29.01.080	REEN	111	114	29.04.035	RECD	111	2401
29.01.087	REP	111	2404	29.04.040	AMD	111	404
29.01.090	AMD	111	115	29.04.040	RECD	111	2401
29.01.090	RECD	111	2401	29.04.050	AMD	111	405
29.01.100	RECD	111	2401	29.04.050	RECD	111	2401
29.01.100	REEN	111	116	29.04.055	RECD	111	2401
29.01.110	AMD	111	117	29.04.055	REEN	111	406
29.01.110	RECD	111	2401	29.04.060	AMD	111	138
29.01.113	RECD	111	2401	29.04.060	RECD	111	2401
29.01.113	REEN	111	118	29.04.070	AMD	111	137
29.01.117	RECD	111	2401	29.04.070	RECD	111	2401
29.01.117	REEN	111	119	29.04.080	AMD	111	161
29.01.119	RECD	111	2401	29.04.080	RECD	111	2401
29.01.119	REEN	111	120	29.04.085	AMD	111	139
29.01.120	AMD	111	121	29.04.085	RECD	111	2401
29.01.120	RECD	111	2401	29.04.088	AMD	111	140
29.01.130	RECD	111	2401	29.04.088	RECD	111	2401
29.01.130	REEN	111	122	29.04.091	RECD	111	2401
29.01.135	RECD	111	2401	29.04.091	REEN	111	141
29.01.135	REEN	111	123	29.04.095	AMD	111	202
29.01.136	RECD	111	2401	29.04.095	RECD	111	2401
29.01.136	REEN	111	124	29.04.100	AMD	111	247
29.01.137	AMD	111	125	29.04.100	RECD	111	2401
29.01.137	RECD	111	2401	29.04.110	AMD	111	248
29.01.140	AMD	111	126	29.04.110	RECD	111	2401
29.01.140	RECD	111	2401	29.04.120	AMD	53	176
29.01.150	REP	111	2404	29.04.120	AMD	111	249
29.01.155	RECD	111	2401	29.04.120	RECD	111	2401

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RCW		CH.	SEC.	RCW		CH.	SEC.
29.04.140	AMD	111	1904	29.07.160	REEN	111	212
29.04.140	RECD	111	2401	29.07.170	RECD	111	2401
29.04.150	RECD	111	2401	29.07.170	REEN	111	1111
29.04.150	REEN	111	250	29.07.180	RECD	111	2401
29.04.160	AMD	111	251	29.07.180	REEN	111	1128
29.04.160	RECD	111	2401	29.07.220	AMD	111	209
29.04.170	AMD	111	504	29.07.220	RECD	111	2401
29.04.170	RECD	111	2401	29.07.230	RECD	111	2401
29.04.180	AMD	111	622	29.07.230	REEN	111	215
29.04.180	RECD	111	2401	29.07.240	REP	111	2404
29.04.190	RECD	111	2401	29.07.260	AMD	111	225
29.04.190	REEN	111	623	29.07.260	RECD	111	2401
29.04.200	AMD	111	315	29.07.270	AMD	111	226
29.04.200	RECD	111	2401	29.07.270	RECD	111	2401
29.04.210	REP	111	2404	29.07.280	REP	111	2404
29.04.230	AMD	111	142	29.07.290	REP	111	2404
29.04.230	RECD	111	2401	29.07.300	REP	111	2404
29.04.235	REP	111	2404	29.07.310	REP	111	2404
29.04.240	RECD	111	2401	29.07.320	REP	111	2404
29.04.240	REEN	111	252	29.07.400	RECD	111	2401
29.04.250	AMD	111	245	29.07.400	REEN	111	2105
29.04.250	RECD	111	2401	29.07.405	RECD	111	2401
29.07.005	AMD	111	201	29.07.405	REEN	111	2106
29.07.005	RECD	111	2401	29.07.410	RECD	111	2401
29.07.010	AMD	111	205	29.07.410	REEN	111	2107
29.07.010	RECD	111	2401	29.07.420	REP	111	2404
29.07.025	AMD	111	222	29.07.430	RECD	111	2401
29.07.025	RECD	111	2401	29.07.430	REEN	111	223
29.07.030	AMD	111	214	29.07.440	RECD	111	2401
29.07.030	RECD	111	2401	29.07.440	REEN	111	224
29.07.070	AMD	111	216	29.07.450	REP	111	2404
29.07.070	RECD	111	2401	29.08.010	AMD	111	204
29.07.080	AMD	111	218	29.08.010	RECD	111	2401
29.07.080	RECD	111	2401	29.08.020	REP	111	2404
29.07.090	AMD	111	219	29.08.030	RECD	111	2401
29.07.090	RECD	111	2401	29.08.030	REEN	111	208
29.07.092	AMD	111	211	29.08.040	RECD	111	2401
29.07.092	RECD	111	2401	29.08.040	REEN	111	221
29.07.100	REP	111	2404	29.08.050	REP	111	2404
29.07.110	AMD	111	207	29.08.060	RECD	111	2401
29.07.110	RECD	111	2401	29.08.060	REEN	111	206
29.07.115	REP	111	2404	29.08.070	REP	111	2404
29.07.120	REP	111	2404	29.08.080	AMD	111	220
29.07.130	AMD	111	246	29.08.080	RECD	111	2401
29.07.130	RECD	111	2401	29.08.090	REP	111	2404
29.07.140	RECD	111	2401	29.08.900	REP	111	2404
29.07.140	REEN	111	217	29.10.011	RECD	111	2401
29.07.152	AMD	111	213	29.10.011	REEN	111	203
29.07.152	RECD	111	2401	29.10.015	RECD	111	2401
29.07.160	RECD	111	2401	29.10.015	REEN	111	238

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RCW		CH.	SEC.	RCW		CH.	SEC.
29.10.020	AMD	111	228	29.13.021	REP	111	2404
29.10.020	RECD	111	2401	29.13.023	RECD	111	2402
29.10.040	AMD	111	229	29.13.023	REEN	111	2301
29.10.040	RECD	111	2401	29.13.024	RECD	111	2402
29.10.051	AMD	111	231	29.13.024	REEN	111	2302
29.10.051	RECD	111	2401	29.13.040	AMD	111	1501
29.10.060	AMD	111	1903	29.13.040	RECD	111	2401
29.10.060	RECD	111	2401	29.13.045	AMD	111	146
29.10.071	RECD	111	2401	29.13.045	RECD	111	2401
29.10.071	REEN	111	239	29.13.047	RECD	111	2401
29.10.075	RECD	111	2401	29.13.047	REEN	111	147
29.10.075	REEN	111	241	29.13.048	AMD	111	148
29.10.081	AMD	111	210	29.13.048	RECD	111	2401
29.10.081	RECD	111	2401	29.13.050	AMD	111	503
29.10.090	AMD	111	232	29.13.050	RECD	111	2401
29.10.090	RECD	111	2401	29.13.060	REP	111	2404
29.10.097	RECD	111	2401	29.13.070	AMD	111	143
29.10.097	REEN	111	233	29.13.070	RECD	111	2401
29.10.100	AMD	111	234	29.13.080	RECD	111	2401
29.10.100	RECD	111	2401	29.13.080	REEN	111	1107
29.10.110	RECD	111	2401	29.15.010	AMD	111	603
29.10.110	REEN	111	235	29.15.010	RECD	111	2401
29.10.125	RECD	111	2401	29.15.020	RECD	111	2401
29.10.125	REEN	111	253	29.15.020	REEN	111	605
29.10.127	AMD	111	254	29.15.025	AMD	111	502
29.10.127	RECD	111	2401	29.15.025	RECD	111	2401
29.10.130	RECD	111	2401	29.15.026	RECD	111	2401
29.10.130	REEN	111	255	29.15.026	REEN	111	1902
29.10.140	RECD	111	2401	29.15.030	AMD	111	607
29.10.140	REEN	111	256	29.15.030	RECD	111	2401
29.10.150	AMD	111	257	29.15.040	RECD	111	2401
29.10.150	RECD	111	2401	29.15.040	REEN	111	608
29.10.170	RECD	111	2401	29.15.044	RECD	111	2401
29.10.170	REEN	111	230	29.15.044	REEN	111	604
29.10.180	RECD	111	2401	29.15.046	REP	111	2404
29.10.180	REEN	111	236	29.15.050	RECD	111	2401
29.10.185	AMD	111	237	29.15.050	REEN	111	609
29.10.185	RECD	111	2401	29.15.060	AMD	111	610
29.10.200	RECD	111	2401	29.15.060	RECD	111	2401
29.10.200	REEN	111	242	29.15.070	RECD	111	2401
29.10.210	RECD	111	2401	29.15.070	REEN	111	611
29.10.210	REEN	111	243	29.15.080	RECD	111	2401
29.10.220	AMD	111	240	29.15.080	REEN	111	2114
29.10.220	RECD	111	2401	29.15.090	AMD	111	606
29.10.230	AMD	111	244	29.15.090	RECD	111	2401
29.10.230	RECD	111	2401	29.15.100	AMD	53	177
29.13.010	AMD	111	144	29.15.100	AMD	111	2118
29.13.010	RECD	111	2401	29.15.100	RECD	111	2401
29.13.020	AMD	111	145	29.15.110	AMD	53	178
29.13.020	RECD	111	2401	29.15.110	AMD	111	2115

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RCW		CH.	SEC.	RCW		CH.	SEC.
29.15.110	RECD	111	2401	29.19.070	RECD	111	2401
29.15.120	RECD	111	2401	29.19.080	RECD	111	2401
29.15.120	REEN	111	613	29.19.080	REEN	111	1406
29.15.125	RECD	111	2401	29.19.900	REP	111	2404
29.15.125	REEN	111	612	29.21.010	RECD	111	2401
29.15.130	RECD	111	2401	29.21.010	REEN	111	1305
29.15.130	REEN	111	601	29.21.015	RECD	111	2401
29.15.140	RECD	111	2401	29.21.015	REEN	111	1306
29.15.140	REEN	111	602	29.21.070	RECD	111	2401
29.15.150	RECD	111	2401	29.21.070	REEN	111	1307
29.15.150	REEN	111	1301	29.21.410	AMD	111	1308
29.15.160	RECD	111	2401	29.21.410	RECD	111	2401
29.15.160	REEN	111	614	29.24.010	AMD	111	505
29.15.170	RECD	111	2401	29.24.010	RECD	111	2401
29.15.170	REEN	111	617	29.24.020	RECD	111	2401
29.15.180	RECD	111	2401	29.24.020	REEN	111	506
29.15.180	REEN	111	618	29.24.025	RECD	111	2401
29.15.190	AMD	111	619	29.24.025	REEN	111	507
29.15.190	RECD	111	2401	29.24.030	RECD	111	2401
29.15.200	RECD	111	2401	29.24.030	REEN	111	508
29.15.200	REEN	111	620	29.24.035	RECD	111	2401
29.15.210	RECD	111	2401	29.24.035	REEN	111	509
29.15.210	REEN	111	615	29.24.040	AMD	111	510
29.15.220	AMD	111	616	29.24.040	RECD	111	2401
29.15.220	RECD	111	2401	29.24.045	RECD	111	2401
29.15.230	RECD	111	2401	29.24.045	REEN	111	511
29.15.230	REEN	111	621	29.24.055	RECD	111	2401
29.15.240	REP	111	2404	29.24.055	REEN	111	512
29.15.800	REP	111	2404	29.24.060	RECD	111	2401
29.18.010	RECD	111	2401	29.24.060	REEN	111	513
29.18.010	REEN	111	1302	29.24.070	AMD	111	514
29.18.120	RECD	111	2401	29.24.070	RECD	111	2401
29.18.120	REEN	111	1303	29.27.020	RECD	111	2401
29.18.150	AMD	111	701	29.27.020	REEN	111	901
29.18.150	RECD	111	2401	29.27.030	AMD	111	1309
29.18.160	AMD	111	702	29.27.030	RECD	111	2401
29.18.160	RECD	111	2401	29.27.050	RECD	111	2401
29.18.200	RECD	111	2401	29.27.050	REEN	111	1310
29.18.200	REEN	111	1304	29.27.057	RECD	111	2401
29.19.010	AMD	111	1401	29.27.057	REEN	111	902
29.19.010	RECD	111	2401	29.27.061	RECD	111	2401
29.19.020	RECD	111	2401	29.27.061	REEN	111	903
29.19.020	REEN	111	1402	29.27.065	RECD	111	2401
29.19.030	RECD	111	2401	29.27.065	REEN	111	904
29.19.030	REEN	111	1403	29.27.0653	RECD	111	2401
29.19.045	RECD	111	2401	29.27.0653	REEN	111	905
29.19.045	REEN	111	1404	29.27.0655	RECD	111	2401
29.19.055	RECD	111	2401	29.27.0655	REEN	111	906
29.19.055	REEN	111	1405	29.27.066	RECD	111	2401
29.19.070	AMD	111	162	29.27.066	REEN	111	907

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<u>RCW</u>		<u>CH.</u>	<u>SEC.</u>	<u>RCW</u>		<u>CH.</u>	<u>SEC.</u>
29.27.0665	RECD	111	2401	29.33.020	REEN	111	301
29.27.0665	REEN	111	908	29.33.041	RECD	111	2401
29.27.067	RECD	111	2401	29.33.041	REEN	111	302
29.27.067	REEN	111	909	29.33.051	RECD	111	2401
29.27.072	RECD	111	2401	29.33.051	REEN	111	303
29.27.072	REEN	111	1311	29.33.061	RECD	111	2401
29.27.074	RECD	111	2401	29.33.061	REEN	111	304
29.27.074	REEN	111	1312	29.33.081	AMD	111	305
29.27.076	AMD	111	805	29.33.081	RECD	111	2401
29.27.076	RECD	111	2401	29.33.130	RECD	111	2401
29.27.080	AMD	111	1313	29.33.130	REEN	111	306
29.27.080	RECD	111	2401	29.33.145	RECD	111	2401
29.27.090	AMD	111	501	29.33.145	REEN	111	307
29.27.090	RECD	111	2401	29.33.300	RECD	111	2401
29.27.100	AMD	111	1314	29.33.300	REEN	111	308
29.27.100	RECD	111	2401	29.33.310	RECD	111	2401
29.27.110	AMD	111	1315	29.33.310	REEN	111	309
29.27.110	RECD	111	2401	29.33.320	RECD	111	2401
29.27.120	RECD	111	2401	29.33.320	REEN	111	310
29.27.120	REEN	111	1513	29.33.330	AMD	111	311
29.27.140	RECD	111	2401	29.33.330	RECD	111	2401
29.27.140	REEN	111	1429	29.33.340	RECD	111	2401
29.30.005	AMD	111	910	29.33.340	REEN	111	312
29.30.005	RECD	111	2401	29.33.350	AMD	111	313
29.30.010	RECD	111	2401	29.33.350	RECD	111	2401
29.30.010	REEN	111	911	29.33.360	RECD	111	2401
29.30.020	RECD	111	2401	29.33.360	REEN	111	314
29.30.020	REEN	111	912	29.36.210	RECD	111	2401
29.30.025	RECD	111	2401	29.36.210	REEN	111	1001
29.30.025	REEN	111	913	29.36.220	AMD	111	1002
29.30.040	RECD	111	2401	29.36.220	RECD	111	2401
29.30.040	REEN	111	914	29.36.230	RECD	111	2401
29.30.060	RECD	111	2401	29.36.230	REEN	111	1003
29.30.060	REEN	111	915	29.36.240	RECD	111	2401
29.30.081	AMD	111	916	29.36.240	REEN	111	1004
29.30.081	RECD	111	2401	29.36.250	AMD	111	1005
29.30.085	RECD	111	2401	29.36.250	RECD	111	2401
29.30.085	REEN	111	917	29.36.260	AMD	111	1006
29.30.086	RECD	111	2401	29.36.260	RECD	111	2401
29.30.086	REEN	111	918	29.36.270	AMD	162	2
29.30.095	RECD	111	2401	29.36.270	RECD	111	2401
29.30.095	REEN	111	919	29.36.270	REEN	111	1007
29.30.101	RECD	111	2401	29.36.280	RECD	111	2401
29.30.101	REEN	111	920	29.36.280	REEN	111	1008
29.30.111	RECD	111	2401	29.36.290	RECD	111	2401
29.30.111	REEN	111	921	29.36.290	REEN	111	1009
29.30.130	RECD	111	2401	29.36.300	RECD	111	2401
29.30.130	REEN	111	922	29.36.300	REEN	111	1010
29.33	ADD	110	1	29.36.310	RECD	111	2401
29.33.020	RECD	111	2401	29.36.310	REEN	111	1011

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RCW		CH.	SEC.	RCW		CH.	SEC.
29.36.320	RECD	111	2401	29.45.050	AMD	111	1138
29.36.320	REEN	111	1012	29.45.050	RECD	111	2401
29.36.330	RECD	111	2401	29.45.060	RECD	111	2401
29.36.330	REEN	111	1518	29.45.060	REEN	111	1139
29.36.340	RECD	111	2401	29.45.065	RECD	111	2401
29.36.340	REEN	111	1013	29.45.065	REEN	111	1140
29.36.350	RECD	111	2401	29.45.070	AMD	111	1141
29.36.350	REEN	111	1014	29.45.070	RECD	111	2401
29.36.360	AMD	111	1015	29.45.080	RECD	111	2401
29.36.360	RECD	111	2401	29.45.080	REEN	111	1142
29.36.370	AMD	53	179	29.45.090	RECD	111	2401
29.36.370	AMD	111	2136	29.45.090	REEN	111	1143
29.36.370	RECD	111	2401	29.45.100	RECD	111	2401
29.36.900	REP	111	2404	29.45.100	REEN	111	1144
29.38.010	AMD	162	3	29.45.110	RECD	111	2401
29.38.010	RECD	111	2401	29.45.110	REEN	111	1145
29.38.010	REEN	111	1201	29.45.120	AMD	111	1146
29.38.020	AMD	162	4	29.45.120	RECD	111	2401
29.38.020	RECD	111	2401	29.48.005	AMD	111	407
29.38.020	REEN	111	1202	29.48.005	RECD	111	2401
29.38.030	RECD	111	2401	29.48.007	RECD	111	2401
29.38.030	REEN	111	1203	29.48.007	REEN	111	408
29.38.040	AMD	111	1204	29.48.010	RECD	111	2401
29.38.040	RECD	111	2401	29.48.010	REEN	111	1106
29.38.050	RECD	111	2401	29.48.020	RECD	111	2401
29.38.050	REEN	111	1205	29.48.020	REEN	111	1114
29.38.060	AMD	111	1206	29.48.030	RECD	111	2401
29.38.060	RECD	111	2401	29.48.030	REEN	111	1110
29.38.070	AMD	111	2103	29.48.035	AMD	111	1112
29.38.070	RECD	111	2401	29.48.035	RECD	111	2401
29.42.010	AMD	111	2001	29.48.045	RECD	111	2401
29.42.010	RECD	111	2401	29.48.045	REEN	111	1130
29.42.020	AMD	111	2002	29.48.070	RECD	111	2401
29.42.020	RECD	111	2401	29.48.070	REEN	111	1115
29.42.030	AMD	111	2003	29.48.080	RECD	111	2401
29.42.030	RECD	111	2401	29.48.080	REEN	111	1129
29.42.040	RECD	111	2401	29.48.090	RECD	111	2401
29.42.040	REEN	111	2004	29.48.090	REEN	111	1116
29.42.050	AMD	111	2005	29.48.100	RECD	111	2401
29.42.050	RECD	111	2401	29.48.100	REEN	111	1117
29.42.070	AMD	111	2006	29.51.010	RECD	111	2401
29.42.070	RECD	111	2401	29.51.010	REEN	111	1101
29.45.010	AMD	111	1134	29.51.020	RECD	111	2401
29.45.010	RECD	111	2401	29.51.020	REEN	111	2121
29.45.020	AMD	111	1135	29.51.030	AMD	111	2122
29.45.020	RECD	111	2401	29.51.030	RECD	111	2401
29.45.030	AMD	111	1136	29.51.050	AMD	111	1119
29.45.030	RECD	111	2401	29.51.050	RECD	111	2401
29.45.040	RECD	111	2401	29.51.060	AMD	111	1120
29.45.040	REEN	111	1137	29.51.060	RECD	111	2401

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RCW	CH.	SEC.	RCW	CH.	SEC.		
29.51.070	RECD	111	2401	29.54.060	RECD	111	2401
29.51.070	REEN	111	1122	29.54.060	REEN	111	1505
29.51.100	AMD	111	1121	29.54.075	AMD	111	1511
29.51.100	RECD	111	2401	29.54.075	RECD	111	2401
29.51.115	RECD	111	2401	29.54.085	AMD	111	1512
29.51.115	REEN	111	1132	29.54.085	RECD	111	2401
29.51.125	AMD	111	1102	29.54.093	RECD	111	2401
29.51.125	RECD	111	2401	29.54.093	REEN	111	1131
29.51.150	RECD	111	2401	29.54.097	RECD	111	2401
29.51.150	REEN	111	1118	29.54.097	REEN	111	1506
29.51.155	RECD	111	2401	29.54.105	RECD	111	2401
29.51.155	REEN	111	1133	29.54.105	REEN	111	1507
29.51.173	REP	111	2404	29.54.121	RECD	111	2401
29.51.175	RECD	111	2401	29.54.121	REEN	111	1508
29.51.175	REEN	111	1510	29.54.170	RECD	111	2401
29.51.180	RECD	111	2401	29.54.170	REEN	111	1509
29.51.180	REEN	111	1103	29.57.010	AMD	111	401
29.51.185	AMD	111	1109	29.57.010	RECD	111	2401
29.51.185	RECD	111	2401	29.57.040	RECD	111	2401
29.51.190	RECD	111	2401	29.57.040	REEN	111	409
29.51.190	REEN	111	1104	29.57.050	RECD	111	2401
29.51.200	AMD	53	180	29.57.050	REEN	111	412
29.51.200	AMD	111	1123	29.57.070	RECD	111	2401
29.51.200	RECD	111	2401	29.57.070	REEN	111	410
29.51.215	AMD	111	2135	29.57.090	AMD	111	402
29.51.215	RECD	111	2401	29.57.090	RECD	111	2401
29.51.215	REP	53	421	29.57.100	RECD	111	2401
29.51.221	RECD	111	2401	29.57.100	REEN	111	411
29.51.221	REEN	111	2123	29.57.130	RECD	111	2401
29.51.230	AMD	53	181	29.57.130	REEN	111	1113
29.51.230	AMD	111	2134	29.57.140	AMD	111	135
29.51.230	RECD	111	2401	29.57.140	RECD	111	2401
29.51.240	RECD	111	2401	29.57.150	RECD	111	2401
29.51.240	REEN	111	1108	29.57.150	REEN	111	413
29.51.250	RECD	111	2401	29.57.160	AMD	111	403
29.51.250	REEN	111	1125	29.57.160	RECD	111	2401
29.54.010	AMD	111	1126	29.57.170	REP	111	2404
29.54.010	RECD	111	2401	29.60.010	AMD	111	149
29.54.015	AMD	111	1127	29.60.010	RECD	111	2401
29.54.015	RECD	111	2401	29.60.020	AMD	111	163
29.54.018	AMD	111	1124	29.60.020	RECD	111	2401
29.54.018	RECD	111	2401	29.60.030	RECD	111	2401
29.54.025	AMD	111	1517	29.60.030	REEN	111	151
29.54.025	RECD	111	2401	29.60.040	AMD	111	152
29.54.037	RECD	111	2401	29.60.040	RECD	111	2401
29.54.037	REEN	111	1105	29.60.050	AMD	111	153
29.54.042	RECD	111	2401	29.60.050	RECD	111	2401
29.54.042	REEN	111	1503	29.60.060	RECD	111	2401
29.54.050	RECD	111	2401	29.60.060	REEN	111	154
29.54.050	REEN	111	1504	29.60.070	RECD	111	2401

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RCW	CH.	SEC.	RCW	CH.	SEC.		
29.60.070	REEN	111	155	29.65.010	RECD	111	2401
29.60.080	RECD	111	2401	29.65.020	AMD	111	1703
29.60.080	REEN	111	156	29.65.020	RECD	111	2401
29.60.090	RECD	111	2401	29.65.040	AMD	111	1704
29.60.090	REEN	111	157	29.65.040	RECD	111	2401
29.62.010	REP	111	2404	29.65.050	RECD	111	2401
29.62.015	REP	111	2404	29.65.050	REEN	111	1705
29.62.020	AMD	111	1516	29.65.055	RECD	111	2401
29.62.020	RECD	111	2401	29.65.055	REEN	111	1706
29.62.030	AMD	111	1515	29.65.060	AMD	111	1707
29.62.030	RECD	111	2401	29.65.060	RECD	111	2401
29.62.040	AMD	111	1520	29.65.070	RECD	111	2401
29.62.040	RECD	111	2401	29.65.070	REEN	111	1708
29.62.050	AMD	111	1521	29.65.080	AMD	111	1709
29.62.050	RECD	111	2401	29.65.080	RECD	111	2401
29.62.080	AMD	111	1522	29.65.090	AMD	111	1710
29.62.080	RECD	111	2401	29.65.090	RECD	111	2401
29.62.090	AMD	111	1523	29.65.100	AMD	111	1711
29.62.090	RECD	111	2401	29.65.100	RECD	111	2401
29.62.100	AMD	111	1524	29.65.120	RECD	111	2401
29.62.100	RECD	111	2401	29.65.120	REEN	111	1712
29.62.120	AMD	111	1525	29.68.015	REP	111	2404
29.62.120	RECD	111	2401	29.68.016	REP	111	2404
29.62.130	AMD	111	1526	29.68.070	RECD	111	2401
29.62.130	RECD	111	2401	29.68.070	REEN	111	703
29.62.180	RECD	111	2401	29.68.080	AMD	111	704
29.62.180	REEN	111	1502	29.68.080	RECD	111	2401
29.64.010	AMD	111	1601	29.68.100	AMD	111	705
29.64.010	RECD	111	2401	29.68.100	RECD	111	2401
29.64.015	RECD	111	2401	29.68.120	REP	111	2404
29.64.015	REEN	111	1602	29.68.130	AMD	111	706
29.64.020	RECD	111	2401	29.68.130	RECD	111	2401
29.64.020	REEN	111	1603	29.70.100	RECD	111	2401
29.64.030	RECD	111	2401	29.70.100	REEN	111	1901
29.64.030	REEN	111	1604	29.71.010	AMD	111	1424
29.64.035	RECD	111	2401	29.71.010	RECD	111	2401
29.64.035	REEN	111	1605	29.71.020	RECD	111	2401
29.64.040	RECD	111	2401	29.71.020	REEN	111	1425
29.64.040	REEN	111	1606	29.71.030	AMD	111	1426
29.64.051	RECD	111	2401	29.71.030	RECD	111	2401
29.64.051	REEN	111	1607	29.71.040	AMD	111	1427
29.64.060	RECD	111	2401	29.71.040	RECD	111	2401
29.64.060	REEN	111	1608	29.71.050	AMD	111	1428
29.64.070	REP	111	2404	29.71.050	RECD	111	2401
29.64.080	RECD	111	2401	29.74.010	AMD	111	1430
29.64.080	REEN	111	1609	29.74.010	RECD	111	2401
29.64.090	AMD	111	1610	29.74.020	RECD	111	2401
29.64.090	RECD	111	2401	29.74.020	REEN	111	1431
29.64.900	REP	111	2404	29.74.030	AMD	111	1432
29.65.010	AMD	111	1702	29.74.030	RECD	111	2401

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<u>RCW</u>		<u>CH.</u>	<u>SEC.</u>	<u>RCW</u>		<u>CH.</u>	<u>SEC.</u>
29.74.040	RECD	111	2401	29.79.115	RECD	111	2401
29.74.040	REEN	111	1433	29.79.120	AMD	111	1816
29.74.050	RECD	111	2401	29.79.120	RECD	111	2401
29.74.050	REEN	111	1434	29.79.140	RECD	111	2401
29.74.060	AMD	111	1435	29.79.140	REEN	111	1817
29.74.060	RECD	111	2401	29.79.150	AMD	111	1818
29.74.070	AMD	111	1436	29.79.150	RECD	111	2401
29.74.070	RECD	111	2401	29.79.160	AMD	111	1819
29.74.080	RECD	111	2401	29.79.160	RECD	111	2401
29.74.080	REEN	111	1437	29.79.170	AMD	111	1820
29.74.090	REP	111	2404	29.79.170	RECD	111	2401
29.74.100	AMD	111	1438	29.79.180	RECD	111	2401
29.74.100	RECD	111	2401	29.79.180	REEN	111	1821
29.74.110	AMD	111	1439	29.79.190	RECD	111	2401
29.74.110	RECD	111	2401	29.79.190	REEN	111	1822
29.74.120	RECD	111	2401	29.79.200	RECD	111	2401
29.74.120	REEN	111	1440	29.79.200	REEN	111	1823
29.74.130	AMD	111	1441	29.79.210	RECD	111	2401
29.74.130	RECD	111	2401	29.79.210	REEN	111	1824
29.74.140	RECD	111	2401	29.79.230	AMD	111	1825
29.74.140	REEN	111	1442	29.79.230	RECD	111	2401
29.74.150	RECD	111	2401	29.79.250	REP	111	2404
29.74.150	REEN	111	1443	29.79.270	RECD	111	2401
29.79.010	AMD	111	1802	29.79.270	REEN	111	1826
29.79.010	RECD	111	2401	29.79.280	RECD	111	2401
29.79.015	AMD	111	1803	29.79.280	REEN	111	1827
29.79.015	RECD	111	2401	29.79.290	RECD	111	2401
29.79.020	AMD	111	1804	29.79.290	REEN	111	1828
29.79.020	RECD	111	2401	29.79.300	AMD	111	1829
29.79.030	AMD	111	1805	29.79.300	RECD	111	2401
29.79.030	RECD	111	2401	29.79.440	AMD	53	182
29.79.035	RECD	111	2401	29.79.440	AMD	111	2111
29.79.035	REEN	111	1806	29.79.440	RECD	111	2401
29.79.040	RECD	111	2401	29.79.480	AMD	111	2109
29.79.040	REEN	111	1807	29.79.480	RECD	111	2401
29.79.050	RECD	111	2401	29.79.490	AMD	111	2113
29.79.050	REEN	111	1808	29.79.490	RECD	111	2401
29.79.060	RECD	111	2401	29.79.500	RECD	111	2401
29.79.060	REEN	111	1809	29.79.500	REEN	111	2116
29.79.070	RECD	111	2401	29.81.210	RECD	111	2401
29.79.070	REEN	111	1810	29.81.210	REEN	111	801
29.79.080	AMD	111	1811	29.81.220	RECD	111	2401
29.79.080	RECD	111	2401	29.81.220	REEN	111	803
29.79.090	AMD	111	1812	29.81.230	RECD	111	2401
29.79.090	RECD	111	2401	29.81.230	REEN	111	804
29.79.100	AMD	111	1813	29.81.240	RECD	111	2401
29.79.100	RECD	111	2401	29.81.240	REEN	111	806
29.79.110	AMD	111	1814	29.81.250	RECD	111	2401
29.79.110	RECD	111	2401	29.81.250	REEN	111	807
29.79.115	AMD	111	1815	29.81.260	RECD	111	2401

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RCW	CH.	SEC.	RCW	CH.	SEC.		
29.81.260	REEN	111	808	29.82.100	RECD	111	2401
29.81.270	REP	111	2404	29.82.100	REEN	111	1417
29.81.280	RECD	111	2401	29.82.105	RECD	111	2401
29.81.280	REEN	111	809	29.82.105	REEN	111	1418
29.81.290	RECD	111	2401	29.82.110	AMD	111	1419
29.81.290	REEN	111	810	29.82.110	RECD	111	2401
29.81.300	RECD	111	2401	29.82.120	AMD	111	1420
29.81.300	REEN	111	811	29.82.120	RECD	111	2401
29.81.310	AMD	111	812	29.82.130	RECD	111	2401
29.81.310	AMD	254	6	29.82.130	REEN	111	1421
29.81.310	RECD	111	2401	29.82.140	AMD	111	1422
29.81.320	REP	111	2404	29.82.140	RECD	111	2401
29.81A.010	AMD	111	813	29.82.160	RECD	111	2401
29.81A.010	RECD	111	2401	29.82.160	REEN	111	1423
29.81A.020	AMD	111	814	29.82.170	AMD	53	183
29.81A.020	RECD	111	2401	29.82.170	AMD	111	2112
29.81A.030	RECD	111	2401	29.82.170	RECD	111	2401
29.81A.030	REEN	111	815	29.82.210	AMD	111	2102
29.81A.040	AMD	111	816	29.82.210	RECD	111	2401
29.81A.040	RECD	111	2401	29.82.220	AMD	111	2110
29.81A.050	RECD	111	2401	29.82.220	RECD	111	2401
29.81A.050	REEN	111	817	29.85.010	RECD	111	2401
29.81A.060	RECD	111	2401	29.85.010	REEN	111	2124
29.81A.060	REEN	111	818	29.85.020	RECD	111	2401
29.81A.070	RECD	111	2401	29.85.020	REEN	111	2120
29.81A.070	REEN	111	819	29.85.040	RECD	111	2401
29.81A.080	RECD	111	2401	29.85.040	REEN	111	2119
29.81A.080	REEN	111	820	29.85.051	RECD	111	2401
29.81A.900	REP	111	2404	29.85.051	REEN	111	2127
29.81A.901	REP	111	2404	29.85.060	RECD	111	2401
29.82.010	AMD	111	1407	29.85.060	REEN	111	2128
29.82.010	RECD	111	2401	29.85.070	RECD	111	2401
29.82.015	RECD	111	2401	29.85.070	REEN	111	2129
29.82.015	REEN	111	1408	29.85.090	RECD	111	2401
29.82.021	AMD	111	1409	29.85.090	REEN	111	2130
29.82.021	RECD	111	2401	29.85.100	AMD	111	2137
29.82.023	RECD	111	2401	29.85.100	RECD	111	2401
29.82.023	REEN	111	1410	29.85.110	AMD	111	2125
29.82.025	AMD	111	1411	29.85.110	RECD	111	2401
29.82.025	RECD	111	2401	29.85.170	RECD	111	2401
29.82.030	AMD	111	1412	29.85.170	REEN	111	2138
29.82.030	RECD	111	2401	29.85.210	RECD	111	2401
29.82.040	AMD	111	1413	29.85.210	REEN	111	2131
29.82.040	RECD	111	2401	29.85.220	RECD	111	2401
29.82.060	RECD	111	2401	29.85.220	REEN	111	2132
29.82.060	REEN	111	1414	29.85.225	RECD	111	2401
29.82.080	AMD	111	1415	29.85.225	REEN	111	2139
29.82.080	RECD	111	2401	29.85.230	RECD	111	2401
29.82.090	RECD	111	2401	29.85.230	REEN	111	2140
29.82.090	REEN	111	1416	29.85.240	AMD	111	2133

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RCW	CH.	SEC.	RCW	CH.	SEC.		
29.85.240	RECD	111	2401	31.45.070	AMD	86	7
29.85.245	AMD	111	2101	31.45.073	AMD	86	8
29.85.245	RECD	111	2401	31.45.077	AMD	86	9
29.85.249	RECD	111	2401	31.45.090	AMD	86	15
29.85.249	REEN	111	2108	31.45.100	AMD	86	16
29.85.260	AMD	111	2126	31.45.110	AMD	86	17
29.85.260	RECD	111	2401	31.45.120	AMD	86	18
29.85.275	RECD	111	2401	31.45.170	REP	86	19
29.85.275	REEN	111	2104	32.04.100	AMD	53	194
29.91.010	RECD	111	2401	32.04.110	AMD	53	195
29.91.010	REEN	111	2201	32.08	ADD	24	4-6
29.91.020	AMD	111	2202	32.08.142	AMD	24	7
29.91.020	RECD	111	2401	32.08.146	AMD	24	8
29.91.030	RECD	111	2401	32.24.080	AMD	53	196
29.91.030	REEN	111	2203	32.32.500	AMD	24	9
29.91.040	RECD	111	2401	33.24.360	AMD	53	197
29.91.040	REEN	111	2204	33.24.380	REP	53	421
29.91.050	RECD	111	2401	34.05	ADD	246	3
29.91.050	REEN	111	2205	34.05.220	AMD	246	2
29.91.060	AMD	111	2206	34.05.312	AMD	246	4
29.91.060	RECD	111	2401	34.05.320	AMD	165	1
29.91.900	REP	111	2404	34.05.328	AMD	39	13
29.91.901	REP	111	2404	34.05.328	AMD	165	2
29.98.010	RECD	111	2401	34.05.518	AMD	393	16
29.98.010	REEN	111	158	35	ADD	148	1-14
29.98.020	AMD	111	159	35.13	ADD	299	1,2
29.98.020	RECD	111	2401	35.13	ADD	331	2-7
29.98.030	RECD	111	2401	35.21	ADD	69	1
29.98.030	REEN	111	160	35.21	ADD	79	2-14
29.98.050	REP	111	2404	35.21	ADD	286	1
29A	ADD	111	2401	35.21.005	AMD	331	8
30.04	ADD	24	1,3	35.21.210	AMD	327	11
30.04.215	REMD	24	2	35.21.404	AMD	39	14
30.04.240	AMD	53	184	35.22	ADD	111	2402
30.04.260	AMD	53	185	35.22	ADD	138	4
30.12.090	AMD	53	186	35.23	ADD	138	5
30.12.100	AMD	53	187	35.27	ADD	138	6
30.12.120	AMD	53	188	35.30	ADD	42	1,2
30.42.290	AMD	53	189	35.32A.090	AMD	53	198
30.44.110	AMD	53	190	35.36.040	AMD	53	199
30.44.120	AMD	53	191	35.45	ADD	139	1
31.12.724	AMD	53	192	35.45.050	AMD	139	2
31.12.850	AMD	53	193	35.58.273	AMD	1	4
31.45	ADD	86	10-14	35.58.274	REP	1	5
31.45.010	AMD	86	1	35.58.275	REP	1	5
31.45.020	AMD	86	2	35.58.276	REP	1	5
31.45.030	AMD	86	3	35.58.277	REP	1	5
31.45.040	AMD	86	4	35.58.278	REP	1	5
31.45.050	AMD	86	5	35.63.185	AMD	286	3
31.45.060	AMD	86	6	35.63.230	AMD	39	15

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RCW		CH.	SEC.	RCW		CH.	SEC.
35.67	ADD	327	12	36.70A	ADD	333	1
35.67.020	AMD	394	1	36.70A.070	REMD	152	1
35.67.370	AMD	297	1	36.70A.110	AMD	299	5
35.84.060	AMD	363	302	36.70A.280	AMD	332	2
35.92	ADD	138	3	36.70A.367	AMD	88	1
35.92.020	AMD	394	2	36.70A.450	AMD	286	5
35.95A.120	AMD	147	14	36.70A.460	AMD	39	21
35A.01.040	AMD	331	9	36.70A.480	AMD	321	5
35A.14	ADD	299	3,4	36.70C.030	AMD	393	17
35A.14	ADD	331	10-13	36.71.060	AMD	53	207
35A.21.290	AMD	39	16	36.71.090	AMD	387	5
35A.36.040	AMD	53	200	36.75.130	AMD	53	208
35A.63.215	AMD	286	4	36.75.140	REP	53	421
35A.63.250	AMD	39	17	36.75.150	REP	53	421
35A.69.010	AMD	39	18	36.78	ADD	363	307
35A.80	ADD	138	7	36.88.160	AMD	139	3
36.01	ADD	327	8	36.89	ADD	327	10
36.16.110	AMD	238	1	36.89.080	AMD	394	3
36.18.170	AMD	53	201	36.94	ADD	327	9
36.22	ADD	289	1	36.94.140	AMD	394	4
36.22.070	AMD	72	1	36.100.030	AMD	376	1
36.22.175	AMD	163	5	36.120.040	AMD	194	1
36.23	ADD	379	20	36.120.050	AMD	350	4
36.28.060	AMD	53	202	36.120.130	AMD	372	1
36.28.070	REP	53	421	36.120.140	AMD	194	2
36.28.080	REP	53	421	38.32.090	AMD	53	209
36.28.140	REP	53	421	38.32.120	AMD	53	210
36.28A	ADD	102	2-4	38.52.106	AMD	25	E1 913
36.29.060	AMD	53	203	38.52.150	AMD	53	211
36.29.070	REP	53	421	38.54.010	AMD	405	1
36.29.190	AMD	23	8	38.54.010	RECD	405	13
36.32.0558	AMD	238	2	38.54.020	AMD	405	2
36.32.070	AMD	238	3	38.54.020	RECD	405	13
36.32.120	AMD	337	6	38.54.030	AMD	405	3
36.32.210	AMD	53	204	38.54.030	RECD	405	13
36.32.215	REP	53	421	38.54.040	RECD	405	13
36.32.220	REP	53	421	38.54.050	AMD	405	4
36.32.225	REP	53	421	38.54.050	RECD	405	13
36.32.230	REP	53	421	38.54.900	RECD	405	13
36.54	ADD	83	301-309	39.04	ADD	300	1,2
36.56	ADD	363	303	39.08.030	AMD	301	4
36.57A	ADD	83	201,202	39.10	ADD	300	6,7
36.57A	ADD	363	304	39.10	ADD	301	1
36.57A.010	AMD	83	209	39.10.020	AMD	300	3
36.57A.100	AMD	83	210	39.10.020	AMD	301	2
36.68.080	AMD	53	205	39.10.020	AMD	352	1
36.69.180	AMD	53	206	39.10.051	AMD	300	4
36.70	ADD	286	2	39.10.051	AMD	352	2
36.70.982	AMD	39	19	39.10.061	AMD	300	5
36.70.992	AMD	39	20	39.10.061	AMD	352	3

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RCW		CH.	SEC.	RCW		CH.	SEC.
39.10.067	AMD	301	3	41.26.062	AMD	53	217
39.10.902	AMD	300	8	41.26.110	AMD	30	3
39.10.902	AMD	301	8	41.26.195	AMD	294	2
39.12	ADD	301	6,9	41.26.460	AMD	294	3
39.12	ADD	363	206	41.26.725	AMD	93	1
39.30.060	AMD	301	5	41.31A.020	AMD	294	4
39.33.010	AMD	303	1	41.32	ADD	349	1
39.34	ADD	327	2,4,6,7	41.32	ADD	402	2
39.34.020	AMD	327	3	41.32.010	AMD	31	1
39.42.060	AMD	147	13	41.32.055	AMD	53	218
39.42.070	AMD	9 E1	1	41.32.520	AMD	155	1
39.44.101	AMD	53	212	41.32.570	REMD	295	6
39.46.050	AMD	23	1	41.32.805	AMD	155	2
39.62.040	AMD	53	213	41.32.895	AMD	155	3
39.94.040	AMD	6	2	41.34.040	AMD	156	1
39.96.020	AMD	47	1	41.35	ADD	157	3
40.14	ADD	163	2,3	41.35	ADD	349	2
40.14.025	AMD	163	1	41.35	ADD	402	3
40.14.027	AMD	163	4	41.35.010	AMD	157	1
40.14.030	AMD	305	1	41.35.030	AMD	157	2
40.14.070	AMD	240	1	41.35.460	AMD	155	4
40.16.010	AMD	53	214	41.35.640	AMD	294	5
40.16.020	AMD	53	215	41.35.710	AMD	155	5
40.16.030	AMD	53	216	41.40	ADD	349	3
41.04	ADD	32	1	41.40	ADD	388	1
41.04	ADD	205	2,3	41.40	ADD	402	1
41.04	ADD	295	1,2,5	41.40.010	AMD	412	4
41.04	ADD	402	4	41.40.037	AMD	295	7
41.04.010	AMD	45	1	41.40.037	AMD	412	5
41.04.033	AMD	205	1	41.40.270	AMD	155	6
41.04.450	AMD	294	1	41.40.660	AMD	294	6
41.04.655	AMD	12 E1	1	41.40.700	AMD	155	7
41.04.660	AMD	12 E1	2	41.40.748	AMD	294	7
41.04.665	AMD	12 E1	3	41.40.801	AMD	294	8
41.05	ADD	29 E1	3,4	41.40.835	AMD	155	8
			7,10	41.40.845	AMD	294	9
41.05	ADD	276	1	41.45	ADD	92	4
41.05.026	AMD	277	2	41.45.020	AMD	295	8
41.05.050	REMD	158	1	41.45.035	AMD	11 E1	1
41.05.065	AMD	158	2	41.45.054	AMD	11 E1	2
41.05.150	REP	126	101	41.45.060	AMD	92	3
41.06.380	AMD	363	104	41.45.060	AMD	294	10
41.16.010	AMD	30	1	41.45.070	REMD	11 E1	3
41.16.020	AMD	30	2	41.45.070	REMD	92	5
41.24.170	REMD	62	1	41.45.090	AMD	295	9
41.24.185	AMD	62	2	41.45.110	AMD	295	10
41.26	ADD	2	1-9	41.50.110	AMD	294	11
41.26	ADD	92	1,6,7	41.50.110	AMD	295	3
41.26	ADD	293	1	41.50.110	REMD	25 E1	914
41.26.030	AMD	388	2	41.50.700	AMD	294	12

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RCW		CH.	SEC.	RCW		CH.	SEC.
41.54.030	AMD	294	13	43.12.035	RECD	334	128
41.54.061	DECD	295	11	43.12.055	AMD	334	103
41.56	ADD	91	2	43.19	ADD	17	1-3
42.12.040	AMD	238	4	43.19	ADD	136	4,5
42.17	ADD	123	2	43.19	ADD	340	1
42.17	ADD	326	91	43.19.1911	AMD	136	6
42.17.090	AMD	123	1	43.19.1939	AMD	53	226
42.17.310	REMD	26 E1	926	43.19.520	AMD	136	1
42.17.310	REMD	124	1	43.19.525	AMD	136	2
42.17.310	REMD	277	3	43.19.530	AMD	136	3
42.17.710	AMD	164	3	43.20	ADD	5 E1	8
42.20.070	AMD	53	219	43.20	ADD	65	2
42.20.090	AMD	53	220	43.20B.030	AMD	207	1
42.30.110	AMD	277	1	43.21A.690	AMD	70	1
42.44.040	REP	199	1	43.21B.005	AMD	39	22
42.52	ADD	23 E1	1	43.21B.005	AMD	393	18
42.52	ADD	153	5	43.21B.110	AMD	393	19
42.52	ADD	164	4	43.21C	ADD	298	1
42.52	ADD	265	2	43.21C.0382	AMD	39	23
42.52.150	AMD	23 E1	2	43.21C.240	AMD	298	2
42.52.150	AMD	153	6	43.21C.260	AMD	39	24
42.52.150	AMD	265	3	43.21K.010	AMD	39	25
43	ADD	3 E1	1-5	43.22.300	AMD	53	227
43	ADD	135	1-11	43.22.340	AMD	53	228
43	ADD	235	1-4	43.22.345	REP	53	421
43	ADD	334	113,128 236-239 553	43.22.434	REMD	67	1
				43.30	ADD	334	113
				43.30.010	RECD	334	128
43	ADD	393	1-15	43.30.020	RECD	334	128
43.01.015	REP	111	2404	43.30.030	RECD	334	128
43.01.100	AMD	53	221	43.30.040	AMD	334	104
43.01.110	REP	53	421	43.30.040	RECD	334	128
43.03.011	AMD	1 E1	1	43.30.050	RECD	334	128
43.03.012	AMD	1 E1	2	43.30.060	AMD	334	105
43.03.013	AMD	1 E1	3	43.30.060	RECD	334	128
43.03.050	AMD	25 E1	915	43.30.095	REP	334	126
43.06.220	AMD	53	222	43.30.115	AMD	334	106
43.06.230	AMD	53	223	43.30.115	RECD	334	128
43.06.460	AMD	236	1	43.30.125	AMD	334	107
43.07	ADD	164	1,2	43.30.125	RECD	334	128
43.07.310	AMD	111	2303	43.30.130	AMD	312	1
43.08.140	AMD	53	224	43.30.130	AMD	334	108
43.08.190	AMD	25 E1	916	43.30.130	RECD	334	128
43.08.250	REMD	25 E1	918	43.30.135	RECD	334	128
43.09.165	AMD	53	225	43.30.138	AMD	334	109
43.10.180	AMD	25 E1	917	43.30.138	RECD	334	128
43.12	ADD	334	127,552	43.30.141	AMD	334	110
43.12.025	AMD	334	101	43.30.141	RECD	334	128
43.12.025	RECD	334	128	43.30.145	AMD	334	111
43.12.035	AMD	334	102	43.30.145	RECD	334	128

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<u>RCW</u>	<u>CH.</u>	<u>SEC.</u>	<u>RCW</u>	<u>CH.</u>	<u>SEC.</u>
43.30.150	AMD	334	112	43.52.440	AMD 39 26
43.30.150	RECD	334	128	43.63A	ADD 7 E1 2
43.30.160	AMD	334	114	43.63A	ADD 26 E1 928
43.30.160	RECD	334	128	43.70	ADD 274 2
43.30.170	AMD	334	115	43.70	ADD 384 1
43.30.170	RECD	334	128	43.70.185	AMD 53 231
43.30.180	AMD	334	116	43.70.630	AMD 70 3
43.30.180	RECD	334	128	43.72.900	AMD 259 1
43.30.210	RECD	334	128	43.79	ADD 360 1501
43.30.250	RECD	334	128	43.79A.040	REMD 19 12
43.30.260	AMD	334	117	43.79A.040	REMD 92 8
43.30.260	RECD	334	128	43.79A.040	REMD 148 15
43.30.265	AMD	334	118	43.79A.040	REMD 191 7
43.30.265	RECD	334	131	43.79A.040	REMD 313 10
43.30.270	AMD	334	119	43.79A.040	REMD 403 9
43.30.270	RECD	334	128	43.84	ADD 150 3
43.30.280	AMD	334	120	43.84.092	REMD 48 2
43.30.280	RECD	334	128	43.84.092	REMD 150 2
43.30.290	AMD	334	121	43.84.092	REMD 324 1
43.30.290	RECD	334	128	43.84.092	REMD 361 602
43.30.300	AMD	334	122	43.85.130	AMD 313 9
43.30.300	RECD	334	129	43.85.130	AMD 334 125
43.30.310	AMD	53	229	43.85.130	RECD 334 128
43.30.310	RECD	334	127	43.88.032	AMD 26 E1 921
43.30.350	RECD	334	128	43.88.110	AMD 206 1
43.30.355	RECD	334	128	43.101	ADD 37 2.3
43.30.360	RECD	334	128	43.101	ADD 270 1
43.30.370	RECD	334	128	43.101.010	AMD 39 27
43.30.390	RECD	334	130	43.105	ADD 18 4.5
43.30.400	AMD	334	124	43.105.020	REMD 18 2
43.30.400	RECD	334	128	43.105.041	AMD 18 3
43.30.410	RECD	334	128	43.131	ADD 29 E1 12
43.30.420	AMD	70	2		
43.30.420	RECD	334	128	43.131.401	AMD 71 5
43.42.005	AMD	71	1	43.131.402	AMD 71 6
43.42.010	AMD	71	2	43.135.045	AMD 26 E1 918
43.42.030	AMD	71	3	43.135.045	REMD 25 E1 920
43.42.040	AMD	71	4	43.135.045	REMD 26 E1 919
43.42.050	AMD	54	4	43.155	ADD 330 1
43.42.060	AMD	54	5	43.157.010	AMD 54 1
43.42.070	AMD	70	7	43.157.020	AMD 54 2
43.43	ADD	405	6-11	43.157.030	AMD 54 3
			13	43.160.030	AMD 151 1
43.43.271	AMD	294	14	43.160.035	AMD 151 2
43.43.295	AMD	294	15	43.175.010	REP 126 201
43.43.830	AMD	105	5	43.175.020	REP 126 201
43.43.856	AMD	53	230	43.175.901	REP 126 201
43.43.934	REMD	316	1	43.185B.020	AMD 40 1
43.43.944	AMD	25 E1	919	43.200.080	AMD 21 E1 1
43.52	ADD	138	1	43.300.080	AMD 70 4

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RCW	CH.	SEC.	RCW	CH.	SEC.	
43.320	ADD	288			201	
43.320	ADD	289			301-304	
43.320.110	AMD	25 E1	921	46.16	ADD 359	1
43.320.110	AMD	288	1	46.16	ADD 361	502
43.330.090	AMD	153	2	46.16	ADD 370	4
43.330.094	AMD	153	4	46.16.010	AMD 53	238
43.332	ADD	346	3	46.16.010	AMD 353	8
43.332.005	AMD	346	1	46.16.0621	AMD 1	2
43.332.010	AMD	346	2	46.16.070	AMD 1	3
44	ADD	362	1-12	46.16.070	AMD 361	201
44	ADD	404	1-6	46.16.233	AMD 196	401
44.04	ADD	265	1	46.16.233	AMD 361	501
44.04.260	AMD	295	12	46.16.314	AMD 196	501
44.28	ADD	362	13	46.16.381	AMD 371	1
44.28.088	AMD	362	14	46.20	ADD 94	5
44.40	ADD	362	16	46.20.0921	AMD 214	1
44.44.015	REP	295	15	46.20.265	AMD 20	1
44.44.030	AMD	295	14	46.20.311	AMD 366	2
44.44.040	AMD	92	2	46.20.500	AMD 41	1
44.44.040	AMD	295	4	46.20.500	AMD 141	7
44.44.050	REP	295	15	46.20.500	AMD 353	9
44.44.060	REP	295	15	46.20.505	AMD 41	2
44.52.010	AMD	347	1	46.20.515	AMD 41	3
46	ADD	354	1-22	46.20.720	AMD 366	1
46.01.140	AMD	370	3	46.25	ADD 195	3,4
46.01.230	AMD	369	1	46.25.070	AMD 195	2
46.04	ADD	141	1	46.30.020	AMD 221	1
46.04	ADD	353	2,6	46.37	ADD 33	1-3
46.04.320	AMD	141	2	46.37.530	AMD 197	1
46.04.320	AMD	353	1	46.44.170	AMD 61	1
46.04.330	AMD	141	3	46.44.175	AMD 53	239
46.04.332	AMD	141	4	46.44.180	AMD 53	240
46.04.332	AMD	353	7	46.52.010	AMD 53	241
46.04.400	AMD	141	5	46.52.090	AMD 53	242
46.04.670	AMD	141	6	46.52.130	REMD 367	1
46.08.170	AMD	53	232	46.55.020	AMD 53	243
46.09.120	AMD	377	1	46.55.113	AMD 177	1
46.09.130	AMD	53	233	46.55.113	AMD 178	1
46.09.170	AMD	25 E1	922	46.55.120	AMD 177	2
46.09.170	AMD	26 E1	920	46.61	ADD 193	1
46.09.170	AMD	361	407	46.61	ADD 353	3
46.09.280	AMD	185	1	46.61.015	AMD 53	244
46.10.130	AMD	53	234	46.61.020	AMD 53	245
46.10.170	AMD	361	408	46.61.024	AMD 101	1
46.12	ADD	94	6	46.61.440	AMD 192	1
46.12.070	AMD	53	235	46.61.5055	REMD 103	1
46.12.101	AMD	264	7	46.61.645	AMD 337	5
46.12.210	AMD	53	236	46.61.685	AMD 53	246
46.12.220	AMD	53	237	46.61.687	AMD 353	5
46.16	ADD	196	101-103	46.61.688	AMD 353	4

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RCW	CH.	SEC.	RCW	CH.	SEC.
46.61.710	AMD	353	10	47.12.120	AMD 198 2
46.63.020	AMD	33	4	47.12.370	AMD 187 1
46.63.110	REMD	380	2	47.28	ADD 363 102,103
46.64.010	AMD	53	247	47.36	ADD 198 1
46.64.040	AMD	223	1	47.36.030	AMD 198 3
46.68	ADD	361	601	47.36.180	AMD 53 257
46.68	ADD	363	305	47.36.200	AMD 53 258
46.68.010	AMD	53	248	47.36.200	AMD 355 1
46.68.020	AMD	264	8	47.36.210	REP 53 421
46.68.035	AMD	361	202	47.36.220	REP 53 421
46.68.090	REMD	361	403	47.36.230	REP 53 421
46.68.110	REMD	361	404	47.36.250	AMD 53 259
46.70.021	AMD	53	249	47.36.250	AMD 356 1
46.70.180	REMD	368	1	47.38.010	AMD 53 260
46.72.100	AMD	53	250	47.38.030	REP 53 421
46.72A.060	AMD	53	251	47.39.020	AMD 55 1
46.72A.070	AMD	53	252	47.41.070	AMD 53 261
46.80.020	AMD	53	253	47.44	ADD 244 3
46.80.190	AMD	53	254	47.52	ADD 83 203
46.81A.010	AMD	41	4	47.52	ADD 188 2
46.81A.010	AMD	353	11	47.52.120	AMD 53 262
46.81A.020	AMD	41	5	47.60.120	AMD 83 204
46.87	ADD	85	3,4	47.60.120	AMD 373 2
46.87.020	AMD	85	1	47.60.135	AMD 374 1
46.87.140	AMD	85	2	47.60.140	AMD 374 2
46.87.260	AMD	53	255	47.60.150	AMD 374 3
46.87.290	AMD	53	256	47.60.326	AMD 374 4
46.94.001	REP	354	24	47.60.330	AMD 374 5
46.94.005	REP	354	24	47.64.090	AMD 83 205
46.94.010	REP	354	24	47.64.090	AMD 91 1
46.94.020	REP	354	24	47.64.090	AMD 373 3
46.94.030	REP	354	24	47.68.233	AMD 53 263
46.94.040	REP	354	24	47.68.233	AMD 375 1
46.94.050	REP	354	24	47.68.234	AMD 53 264
46.94.060	REP	354	24	47.68.234	AMD 375 2
46.94.900	REP	354	24	47.68.240	AMD 53 265
46.96	ADD	21	4-6	47.68.240	AMD 375 3
46.96.020	AMD	21	1	47.68.250	AMD 375 4
46.96.105	AMD	21	2	47.68.255	AMD 53 266
46.96.185	AMD	21	3	47.76	ADD 191 1-6
47.01	ADD	363	203	47.80	ADD 351 2
47.01.900	REP	364	10	47.80.040	AMD 351 1
47.04	ADD	244	5	48.01.050	AMD 248 1
47.04.010	AMD	141	8	48.01.080	AMD 250 1
47.04.010	AMD	244	2	48.01.235	AMD 248 2
47.06	ADD	363	204	48.02.190	AMD 25 E1 923
47.06C.010	AMD	8	1	48.06.030	AMD 53 267
47.06C.040	AMD	8	2	48.06.190	AMD 53 268
47.06C.901	AMD	8	3	48.09.320	AMD 249 1
47.10	ADD	147	1-12	48.13.180	AMD 251 1

RCW SECTIONS AFFECTED BY 2003 STATUTES

RCW		CH.	SEC.	RCW		CH.	SEC.
48.14	ADD	341	3	48.99.040	AMD	248	25
48.14.029	AMD	248	3	49.04	ADD	128	2
48.14.060	AMD	341	1	49.04	ADD	363	202
48.15	ADD	250	3	49.12.005	AMD	401	2
48.15.020	AMD	250	2	49.12.187	AMD	146	1
48.15.130	AMD	341	2	49.12.187	AMD	401	3
48.17	ADD	250	5,6	49.12.360	AMD	401	4
48.17.060	AMD	250	4	49.12.410	AMD	53	273
48.17.480	AMD	53	269	49.12.460	AMD	401	5
48.18	ADD	116	1	49.26.130	AMD	25 E1	924
48.18	ADD	117	1	49.28.010	AMD	53	274
48.18.103	AMD	248	4	49.28.020	REP	53	421
48.18.291	AMD	248	5	49.28.030	REP	53	421
48.18A.050	AMD	248	6	49.28.080	AMD	53	275
48.19.043	AMD	248	7	49.28.082	REP	53	421
48.20.025	AMD	248	8	49.28.084	REP	53	421
48.21.180	AMD	248	9	49.28.100	AMD	53	276
48.22.005	AMD	115	1	49.28.110	REP	53	421
48.22.085	AMD	115	2	49.44.100	AMD	53	277
48.22.090	AMD	115	3	49.44.110	REP	53	421
48.22.095	AMD	115	4	49.44.120	AMD	53	278
48.22.100	AMD	115	5	49.44.130	REP	53	421
48.22.110	AMD	248	10	49.48	ADD	77	1-3
48.29	ADD	202	1	49.48.120	AMD	122	1
48.30.230	AMD	53	270	49.60.172	AMD	273	2
48.30.270	AMD	323	2	49.60.174	AMD	273	3
48.30.270	REMD	323	1	50.01.010	AMD	4 E2	1
48.30A.015	AMD	53	271	50.04	ADD	4 E2	2,6
48.30A.025	REP	53	421	50.04.206	AMD	4 E2	27
48.31.105	AMD	53	272	50.04.293	AMD	4 E2	5
48.31.111	AMD	248	11	50.04.355	AMD	4 E2	15
48.31.184	AMD	248	12	50.12.220	AMD	4 E2	22
48.31.185	AMD	248	13	50.13.060	AMD	165	3
48.43.115	AMD	248	14	50.16.010	AMD	4 E2	23
48.44	ADD	250	8	50.16.010	AMD	25 E1	925
48.44.015	AMD	250	7	50.16.015	AMD	4 E2	24
48.44.024	AMD	248	15	50.20	ADD	4 E2	9,12
48.44.060	AMD	250	9	50.20	ADD	273	4
48.46	ADD	250	11	50.20.010	AMD	4 E2	3
48.46.027	AMD	250	10	50.20.015	REP	4 E2	35
48.46.068	AMD	248	16	50.20.043	AMD	4 E2	30
48.46.170	AMD	248	17	50.20.045	REP	4 E2	35
48.46.225	AMD	248	18	50.20.050	AMD	4 E2	4
48.46.350	AMD	248	19	50.20.060	AMD	4 E2	7
48.46.420	AMD	250	12	50.20.065	AMD	4 E2	8
48.62.111	AMD	248	20	50.20.100	AMD	4 E2	13
48.90.010	AMD	248	21	50.20.120	AMD	4 E2	11
48.90.020	AMD	248	22	50.20.125	REP	4 E2	35
48.90.030	AMD	248	23	50.20.160	AMD	4 E2	31
48.90.140	AMD	248	24	50.20.190	AMD	4 E2	26

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RCW SECTIONS AFFECTED BY 2003 STATUTES

RCW		CH.	SEC.	RCW		CH.	SEC.
50.20.240	AMD	4 E2	10	62A.9A-406	AMD	87	1
50.24.014	AMD	4 E2	25	62A.9A-408	AMD	87	2
50.29	ADD	4 E2	16	63.14.010	AMD	368	2
			21	63.14.130	AMD	368	3
50.29.020	REMD	4 E2	20	63.29.020	AMD	13 E1	1
50.29.025	AMD	4	1	63.29.050	AMD	13 E1	2
50.29.025	AMD	4 E2	14	63.29.060	AMD	13 E1	3
50.29.026	AMD	4 E2	17	63.29.070	AMD	13 E1	4
50.29.045	REP	4 E2	35	63.29.100	AMD	13 E1	5
50.29.062	AMD	4 E2	18	63.29.120	AMD	13 E1	6
50.29.070	AMD	4 E2	19	63.29.140	AMD	13 E1	7
50.32.040	AMD	4 E2	32	63.29.170	AMD	237	1
50.36.010	AMD	53	279	63.29.180	AMD	237	2
50.36.020	AMD	53	280	64.06.020	AMD	200	1
50.40	ADD	136	7,8	64.36	ADD	348	1
50.40.010	AMD	53	281	64.36.020	AMD	53	289
51.28.055	AMD	2 E2	1	64.36.210	AMD	53	290
51.32	ADD	379	26	64.36.230	REP	53	421
51.32.040	AMD	379	27	65.04.090	AMD	239	1
51.44.170	AMD	25 E1	926	65.12.730	AMD	53	291
51.48.040	AMD	53	282	65.12.740	AMD	53	292
51.48.103	AMD	53	283	65.12.750	AMD	53	293
51.48.280	AMD	53	284	65.12.760	AMD	53	294
51.52.010	AMD	224	1	66.08.150	AMD	320	1
51.52.104	AMD	224	2	66.08.190	AMD	25 E1	927
51.52.120	AMD	53	285	66.16.010	AMD	25 E1	928
52.02.020	AMD	309	1	66.20.200	AMD	53	295
52.04.161	AMD	253	1	66.24.170	AMD	44	1
52.12	ADD	209	1	66.24.240	AMD	154	1
53.08	ADD	327	16	66.24.244	AMD	154	2
53.08.220	AMD	53	286	66.24.244	AMD	167	1
53.34.190	AMD	53	287	66.24.250	AMD	167	2
54.16	ADD	138	2	66.24.261	AMD	167	3
54.16	ADD	327	14	66.24.270	AMD	167	4
57.08	ADD	327	13	66.24.290	AMD	167	5
57.08.005	AMD	394	5	66.24.320	AMD	167	6
57.08.050	AMD	60	1	66.24.320	AMD	345	1
57.08.050	AMD	145	1	66.24.330	AMD	167	7
57.08.081	AMD	394	6	66.24.360	AMD	167	8
59.18	ADD	382	1	66.24.371	AMD	167	9
59.18.200	AMD	7	1	66.24.420	AMD	345	2
59.18.220	AMD	7	2	66.24.452	AMD	167	10
59.20.030	AMD	127	1	66.24.570	AMD	345	3
59.20.070	AMD	127	2	66.28	ADD	154	3
59.20.073	AMD	127	3	66.28.190	AMD	168	305
59.20.080	AMD	127	4	66.28.200	AMD	53	296
59.20.090	AMD	7	3	66.28.210	AMD	53	297
60.28.011	AMD	301	7	66.28.220	AMD	53	298
61.12.030	AMD	53	288	66.28.250	REP	53	421
61.12.031	REP	53	421	66.44	ADD	51	2

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RCW SECTIONS AFFECTED BY 2003 STATUTES

RCW	CH.	SEC.	RCW	CH.	SEC.	
66.44.120	AMD	53	299	69.41.330	AMD 53 330	
66.44.180	AMD	53	300	69.50	ADD 53 332-337	
66.44.190	REP	51	1	69.50	ADD 175 2	
66.44.290	AMD	53	301	69.50.101	AMD 142 4	
66.44.291	REP	53	421	69.50.401	REMD 53 331	
67.16.105	AMD	27 E1	1	69.50.402	AMD 53 338	
67.24.010	AMD	53	302	69.50.403	AMD 53 339	
67.40.040	AMD	25 E1	929	69.50.406	AMD 53 340	
67.70.120	AMD	53	303	69.50.408	AMD 53 341	
67.70.130	AMD	53	304	69.50.410	AMD 53 342	
67.70.140	AMD	53	305	69.50.415	AMD 53 343	
68.28.060	AMD	53	306	69.50.416	AMD 53 344	
68.50	ADD	94	3,7	69.50.430	AMD 53 345	
68.50.100	AMD	53	307	69.50.435	REMD 53 346	
68.50.140	AMD	53	308	69.50.440	AMD 53 347	
68.50.145	AMD	53	309	69.50.505	AMD 53 348	
68.50.150	AMD	53	310	69.50.520	AMD 25 E1 930	
68.50.250	AMD	53	311	69.90.020	AMD 53 349	
68.50.260	REP	53	421	69.90.040	REP 53 421	
68.50.530	AMD	94	2	70	ADD 25 1-8	
68.50.540	AMD	94	4	70	ADD 260 2-13	
68.50.610	AMD	53	312	70	ADD 322 1-9	
68.56.040	AMD	53	313	70	ADD 403 1,2	
69.04.060	AMD	53	314			4-8
69.04.070	AMD	53	315	70.05.120	AMD 53 350	
69.04.930	AMD	39	28	70.14.050	AMD 29 E1 9	
69.04.934	AMD	39	29	70.41	ADD 258 8	
69.07	ADD	397	2	70.44.060	AMD 125 1	
69.07.150	AMD	53	316	70.48.390	AMD 99 1	
69.25	ADD	53	318	70.54	ADD 273 1	
69.25.150	AMD	53	317	70.54	ADD 398 1	
69.25.160	AMD	53	319	70.54.090	AMD 53 351	
69.40.020	AMD	53	320	70.54.100	REP 53 421	
69.40.030	AMD	53	321	70.54.160	AMD 53 352	
69.41	ADD	29 E1	5	70.54.170	REP 53 421	
69.41	ADD	53	327,422	70.58.107	AMD 241 1	
69.41.010	AMD	140	11	70.58.107	AMD 272 1	
69.41.010	AMD	257	2	70.58.280	AMD 53 353	
69.41.020	REMD	53	322	70.74.180	AMD 53 354	
69.41.030	AMD	53	323	70.79.350	AMD 25 E1 931	
69.41.030	AMD	142	3	70.87	ADD 143 3-6	
69.41.040	AMD	53	324			8
69.41.050	AMD	53	325	70.87.010	AMD 143 9	
69.41.070	AMD	53	326	70.87.020	AMD 143 10	
69.41.070	RECD	53	422	70.87.030	AMD 143 11	
69.41.085	AMD	140	12	70.87.050	AMD 143 12	
69.41.150	AMD	29 E1	6	70.87.060	AMD 143 13	
69.41.270	REP	275	5	70.87.080	AMD 143 14	
69.41.300	AMD	53	328	70.87.100	AMD 143 15	
69.41.320	AMD	53	329	70.87.125	AMD 143 16	

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RCW SECTIONS AFFECTED BY 2003 STATUTES

RCW		CH.	SEC.	RCW		CH.	SEC.
70.87.145	AMD	143	17	71.09.020	REMD	216	2
70.87.170	AMD	143	18	71.09.250	AMD	216	3
70.87.180	AMD	143	19	71.09.270	REP	216	7
70.87.200	AMD	143	20	71.09.275	AMD	216	4
70.87.220	AMD	143	7	71.09.290	AMD	216	5
70.87.230	AMD	143	1	71.09.300	AMD	216	1
70.87.240	AMD	143	2	71.09.342	AMD	50	2
70.87.250	AMD	143	21	71.24.820	REP	207	14
70.87.260	AMD	143	22	71.24.830	REP	207	14
70.93.030	AMD	337	2	71.34	ADD	107	1
70.93.060	AMD	337	3	71.34.046	AMD	106	1
70.93.100	REP	337	7	71.36	ADD	281	2,3
70.94	ADD	264	1	71.36.020	AMD	281	4
70.94	ADD	364	9	72.09.111	AMD	271	2
70.94.085	AMD	70	5	72.09.111	AMD	379	25
70.94.430	AMD	53	355	72.09.480	AMD	271	3
70.94.483	AMD	25 E1	932	72.11.040	AMD	25 E1	936
70.95D.100	AMD	53	356	72.23.170	AMD	53	364
70.96A.350	AMD	379	11	72.23.300	AMD	53	365
70.96A.420	AMD	207	6	72.23.450	REP	207	15
70.96A.520	AMD	207	7	72.63.040	AMD	39	31
70.98.098	AMD	21 E1	2	73.04	ADD	161	1
70.105.085	AMD	53	357	74.04	ADD	19	8
70.105D.070	AMD	25 E1	933	74.04.005	AMD	10 E1	1
70.105D.090	AMD	39	30	74.04.300	AMD	208	1
70.106.140	AMD	53	358	74.08.055	AMD	53	366
70.108.130	AMD	53	359	74.08.100	AMD	53	367
70.110.040	AMD	53	360	74.08.331	AMD	53	368
70.110.060	REP	53	421	74.08A.260	AMD	383	1
70.111.030	AMD	53	361	74.08A.275	AMD	383	2
70.111.050	REP	53	421	74.08A.285	AMD	383	3
70.119A	ADD	5 E1	7	74.09	ADD	29 E1	2,8
70.119A.110	AMD	5 E1	18	74.09.055	AMD	14 E1	1
70.122.090	AMD	53	362	74.09.310	REP	207	15
70.127.010	AMD	140	7	74.09.320	REP	207	15
70.127.020	AMD	53	363	74.09.520	AMD	279	1
70.127.040	AMD	140	8	74.09.575	AMD	28 E1	1
70.127.040	AMD	275	3	74.09.757	REP	274	1
70.127.120	AMD	140	9	74.13	ADD	112	2-6
70.127.170	AMD	140	10	74.13	ADD	284	1,4
70.127.210	REP	53	421	74.13.017	AMD	207	8
70.146.030	AMD	25 E1	934	74.13.036	AMD	207	2
70.146.080	AMD	25 E1	935	74.14A.050	AMD	207	9
70.155	ADD	113	2	74.14C.070	AMD	207	3
70.155.010	AMD	113	1	74.18	ADD	409	4,11,12
70.157	ADD	342	2	74.18.010	AMD	409	2
70.157.020	AMD	342	1	74.18.020	AMD	409	3
71	ADD	283	1-26	74.18.050	AMD	409	5
71.09	ADD	216	6	74.18.060	AMD	409	6
71.09.020	REMD	50	1	74.18.070	AMD	409	7

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RCW		CH.	SEC.	RCW		CH.	SEC.
74.18.090	AMD	409	8	76.12.035	RECD	334	245
74.18.110	AMD	409	9	76.12.040	RECD	334	241
74.18.120	AMD	409	10	76.12.045	RECD	334	241
74.18.130	AMD	409	13	76.12.050	AMD	25 E1	937
74.18.140	AMD	409	14	76.12.050	AMD	334	209
74.18.150	AMD	409	15	76.12.050	RECD	334	244
74.18.160	REP	409	21	76.12.060	AMD	334	210
74.18.170	AMD	409	16	76.12.060	RECD	334	244
74.18.180	AMD	409	17	76.12.065	AMD	334	211
74.18.200	AMD	409	18	76.12.065	RECD	334	244
74.18.210	AMD	409	19	76.12.067	RECD	334	245
74.18.230	AMD	409	20	76.12.070	AMD	334	212
74.18.250	REP	409	21	76.12.070	RECD	334	245
74.34.020	AMD	230	1	76.12.072	AMD	334	213
74.34.035	AMD	230	2	76.12.072	RECD	334	246
74.46	ADD	16 E1	4,5	76.12.073	AMD	334	214
74.46.508	AMD	6 E1	1	76.12.073	RECD	334	246
76.01.010	AMD	334	201	76.12.074	AMD	334	215
76.01.010	RECD	334	242	76.12.074	RECD	334	246
76.01.020	REP	334	235	76.12.075	AMD	334	216
76.01.030	REP	334	235	76.12.075	RECD	334	246
76.01.040	AMD	334	202	76.12.080	RECD	334	245
76.01.040	RECD	334	236	76.12.090	AMD	334	217
76.01.050	AMD	334	203	76.12.090	RECD	334	245
76.01.050	RECD	334	236	76.12.100	AMD	334	218
76.01.060	AMD	334	204	76.12.100	RECD	334	245
76.01.060	RECD	334	237	76.12.110	AMD	334	219
76.06	ADD	314	3	76.12.110	RECD	334	249
76.06.010	AMD	314	1	76.12.120	AMD	313	7
76.06.020	AMD	314	2	76.12.120	AMD	334	220
76.09	ADD	311	2,4,8,9	76.12.120	RECD	334	245
			11	76.12.125	AMD	334	221
76.09.020	AMD	311	3	76.12.125	RECD	334	245
76.09.030	AMD	39	32	76.12.140	AMD	53	369
76.09.050	AMD	314	4	76.12.140	AMD	334	222
76.09.055	AMD	311	5	76.12.140	RECD	334	245
76.09.060	REMD	314	5	76.12.155	AMD	334	223
76.09.063	AMD	39	33	76.12.155	RECD	334	245
76.09.220	AMD	393	20	76.12.160	RECD	334	238
76.09.350	AMD	39	34	76.12.170	AMD	25 E1	938
76.09.390	AMD	311	6	76.12.170	RECD	334	238
76.09.910	AMD	39	35	76.12.180	AMD	334	224
76.12.015	REP	334	235	76.12.180	RECD	334	248
76.12.020	AMD	334	205	76.12.205	RECD	334	239
76.12.020	RECD	334	245	76.12.210	RECD	334	239
76.12.030	AMD	313	6	76.12.220	RECD	334	239
76.12.030	AMD	334	206	76.12.230	RECD	334	239
76.12.030	RECD	334	245	76.12.240	AMD	334	225
76.12.033	REP	334	235	76.12.240	RECD	334	240
76.12.035	AMD	334	208	76.13	ADD	311	7

RCW SECTIONS AFFECTED BY 2003 STATUTES

<u>RCW</u>	<u>CH.</u>	<u>SEC.</u>	<u>RCW</u>	<u>CH.</u>	<u>SEC.</u>	
76.13.100	AMD	39	36	77.65.030	AMD 386	5
76.16.010	AMD	334	226	77.65.510	AMD	387 2
76.16.010	RECD	334	247	77.65.515	AMD	387 3
76.16.020	AMD	334	227	77.65.520	AMD	387 4
76.16.020	RECD	334	247	77.70	ADD	174 1-4
76.16.030	AMD	334	228	77.70.280	AMD	174 5
76.16.030	RECD	334	247	77.70.380	REP	174 6
76.16.040	AMD	334	229	77.85	ADD	391 4,5
76.16.040	RECD	334	247	77.105	ADD	173 2
76.20.010	AMD	334	230	77.105.010	AMD	173 1
76.20.010	RECD	334	243	77.105.150	AMD	173 3
76.20.020	AMD	334	231	78	ADD	334 568
76.20.020	RECD	334	243	78.12.061	AMD	53 377
76.20.030	AMD	334	232	78.12.062	REP	53 421
76.20.030	RECD	334	243	78.44	ADD	335 1-3
76.20.035	AMD	334	233	78.44.050	AMD	39 39
76.20.035	RECD	334	243	79	ADD	313 2-5
76.20.040	AMD	334	234	79	ADD	334 129-131
76.20.040	RECD	334	243			240-246
76.36.035	AMD	53	370			302,312
76.36.110	AMD	53	371			313,315
76.36.120	AMD	53	372			316,319
76.42.060	AMD	39	37			322,323
76.48.120	AMD	53	373			329,333
77.08.010	AMD	387	1			334,337
77.12	ADD	153	3			345,347
77.12	ADD	183	1			350,351
77.12	ADD	311	10			353,355
77.12.150	AMD	385	2			358
77.12.170	AMD	317	3			367-370
77.15	ADD	336	1			373,375
77.15	ADD	386	3,4			400
77.15.075	AMD	388	3			554-557
77.15.194	AMD	53	374			559-562
77.15.196	AMD	53	375			566,567
77.15.198	AMD	53	376	79.01.004	AMD	334 301
77.15.310	AMD	39	38	79.01.004	RECD	334 554
77.15.700	AMD	386	2	79.01.006	RECD	334 554
77.32	ADD	263	2	79.01.007	AMD	334 303
77.32	ADD	317	2	79.01.007	RECD	334 554
77.32.050	AMD	389	1	79.01.009	RECD	334 560
77.32.256	AMD	318	2	79.01.036	REP	334 551
77.32.380	AMD	317	4	79.01.038	REP	334 551
77.32.430	AMD	318	1	79.01.048	REP	334 551
77.32.470	AMD	181	1	79.01.052	AMD	334 304
77.36.020	AMD	385	1	79.01.052	RECD	334 553
77.55	ADD	391	6	79.01.056	AMD	334 305
77.55.060	AMD	391	1	79.01.056	RECD	334 552
77.55.100	AMD	391	2	79.01.060	AMD	334 306
77.55.170	AMD	393	21	79.01.060	RECD	334 552

RCW SECTIONS AFFECTED BY 2003 STATUTES

RCW		CH.	SEC.	RCW		CH.	SEC.
79.01.064	AMD	334	307	79.01.148	RECD	334	556
79.01.064	RECD	334	552	79.01.152	REP	334	551
79.01.068	REP	334	551	79.01.160	AMD	334	339
79.01.072	AMD	53	378	79.01.160	RECD	334	559
79.01.072	REP	334	551	79.01.164	AMD	334	340
79.01.074	RECD	334	555	79.01.164	RECD	334	555
79.01.076	RECD	334	554	79.01.168	AMD	334	341
79.01.080	AMD	334	308	79.01.168	RECD	334	559
79.01.080	RECD	334	554	79.01.172	AMD	334	342
79.01.082	AMD	334	309	79.01.172	RECD	334	557
79.01.082	RECD	334	559	79.01.176	AMD	334	343
79.01.084	AMD	334	310	79.01.176	RECD	334	559
79.01.084	RECD	334	554	79.01.184	AMD	334	344
79.01.088	AMD	334	311	79.01.184	AMD	381	2
79.01.088	RECD	334	556	79.01.184	RECD	334	556
79.01.092	AMD	334	314	79.01.188	AMD	334	346
79.01.092	RECD	334	556	79.01.188	AMD	381	4
79.01.093	AMD	334	317	79.01.188	RECD	334	556
79.01.093	RECD	334	554	79.01.192	AMD	334	348
79.01.094	AMD	334	318	79.01.192	RECD	334	556
79.01.094	RECD	334	556	79.01.196	AMD	334	349
79.01.095	AMD	334	320	79.01.196	RECD	334	556
79.01.095	RECD	334	555	79.01.200	AMD	334	352
79.01.096	AMD	334	321	79.01.200	AMD	381	3
79.01.096	RECD	334	556	79.01.200	RECD	334	556
79.01.100	AMD	334	324	79.01.204	AMD	334	354
79.01.100	RECD	334	556	79.01.204	RECD	334	556
79.01.104	AMD	334	325	79.01.208	AMD	334	356
79.01.104	RECD	334	556	79.01.208	RECD	334	556
79.01.108	AMD	334	326	79.01.212	AMD	334	357
79.01.108	RECD	334	556	79.01.212	RECD	334	556
79.01.112	AMD	334	327	79.01.216	AMD	334	359
79.01.112	RECD	334	556	79.01.216	RECD	334	556
79.01.116	AMD	334	328	79.01.220	AMD	334	360
79.01.116	RECD	334	556	79.01.220	RECD	334	554
79.01.120	AMD	334	330	79.01.224	RECD	334	556
79.01.120	RECD	334	556	79.01.228	AMD	334	361
79.01.124	AMD	334	331	79.01.228	RECD	334	556
79.01.124	RECD	334	559	79.01.232	AMD	334	362
79.01.128	AMD	334	332	79.01.232	RECD	334	559
79.01.128	RECD	334	555	79.01.236	AMD	334	363
79.01.132	REMD	381	1	79.01.236	RECD	334	554
79.01.132	REP	334	551	79.01.238	AMD	334	364
79.01.133	REP	334	551	79.01.238	RECD	334	559
79.01.134	AMD	334	335	79.01.240	AMD	334	365
79.01.134	RECD	334	559	79.01.240	RECD	334	554
79.01.136	AMD	334	336	79.01.242	AMD	334	366
79.01.136	RECD	334	556	79.01.242	RECD	334	557
79.01.140	REP	334	551	79.01.244	AMD	182	1
79.01.148	AMD	334	338	79.01.244	AMD	334	371

RCW SECTIONS AFFECTED BY 2003 STATUTES

RCW		CH.	SEC.	RCW		CH.	SEC.
79.01.244	RECD	334	555	79.01.388	AMD	334	391
79.01.248	AMD	334	372	79.01.388	RECD	334	563
79.01.248	RECD	334	557	79.01.392	AMD	334	392
79.01.252	REP	334	551	79.01.392	RECD	334	563
79.01.256	REP	334	551	79.01.396	RECD	334	563
79.01.260	REP	334	551	79.01.400	AMD	334	393
79.01.264	REP	334	551	79.01.400	RECD	334	563
79.01.268	AMD	334	374	79.01.404	AMD	334	394
79.01.268	RECD	334	557	79.01.404	RECD	334	563
79.01.277	REP	334	551	79.01.408	AMD	334	395
79.01.284	AMD	334	376	79.01.408	RECD	334	563
79.01.284	RECD	334	557	79.01.412	RECD	334	563
79.01.292	AMD	334	377	79.01.414	AMD	334	396
79.01.292	RECD	334	554	79.01.414	RECD	334	563
79.01.295	RECD	334	557	79.01.416	RECD	334	563
79.01.2951	RECD	334	557	79.01.500	RECD	334	554
79.01.2955	AMD	334	378	79.01.500	REMD	334	397
79.01.2955	RECD	334	557	79.01.612	AMD	334	398
79.01.296	AMD	334	379	79.01.612	RECD	334	555
79.01.296	RECD	334	557	79.01.616	AMD	334	401
79.01.300	AMD	334	380	79.01.616	RECD	334	558
79.01.300	RECD	334	556	79.01.617	AMD	334	402
79.01.301	AMD	334	381	79.01.617	RECD	334	558
79.01.301	RECD	334	556	79.01.618	AMD	334	403
79.01.304	AMD	334	382	79.01.618	RECD	334	558
79.01.304	RECD	334	554	79.01.620	AMD	334	404
79.01.308	RECD	334	554	79.01.620	RECD	334	558
79.01.312	RECD	334	563	79.01.624	RECD	334	558
79.01.316	RECD	334	563	79.01.628	RECD	334	558
79.01.320	RECD	334	563	79.01.632	AMD	334	405
79.01.324	RECD	334	563	79.01.632	RECD	334	558
79.01.328	RECD	334	563	79.01.633	AMD	334	406
79.01.332	AMD	334	383	79.01.633	RECD	334	558
79.01.332	RECD	334	563	79.01.634	AMD	334	407
79.01.336	AMD	334	384	79.01.634	RECD	334	558
79.01.336	RECD	334	563	79.01.640	AMD	334	408
79.01.340	AMD	334	385	79.01.640	RECD	334	558
79.01.340	RECD	334	563	79.01.642	RECD	334	558
79.01.344	RECD	334	563	79.01.644	AMD	334	409
79.01.348	AMD	334	386	79.01.644	RECD	334	558
79.01.348	RECD	334	563	79.01.645	AMD	334	410
79.01.352	AMD	334	387	79.01.645	RECD	334	558
79.01.352	RECD	334	563	79.01.648	AMD	334	411
79.01.356	AMD	334	388	79.01.648	RECD	334	558
79.01.356	RECD	334	563	79.01.649	AMD	334	412
79.01.360	AMD	334	389	79.01.649	RECD	334	558
79.01.360	RECD	334	563	79.01.650	AMD	334	413
79.01.364	AMD	334	390	79.01.650	RECD	334	558
79.01.364	RECD	334	563	79.01.651	RECD	334	558
79.01.384	RECD	334	563	79.01.652	AMD	334	414

RCW SECTIONS AFFECTED BY 2003 STATUTES

RCW		CH.	SEC.	RCW		CH.	SEC.
79.01.652	RECD	334	558	79.01.770	AMD	334	437
79.01.656	AMD	334	415	79.01.770	RECD	334	560
79.01.656	RECD	334	558	79.01.774	AMD	334	438
79.01.660	AMD	334	416	79.01.774	RECD	334	560
79.01.660	RECD	334	558	79.01.778	AMD	334	439
79.01.664	AMD	334	417	79.01.778	RECD	334	560
79.01.664	RECD	334	558	79.01.780	AMD	334	440
79.01.668	AMD	334	418	79.01.780	RECD	334	560
79.01.668	RECD	334	558	79.01.784	AMD	334	441
79.01.672	AMD	334	419	79.01.784	RECD	334	561
79.01.672	RECD	334	558	79.01.790	RECD	334	559
79.01.676	AMD	334	420	79.01.795	RECD	334	559
79.01.676	RECD	334	558	79.01.800	RECD	334	571
79.01.680	AMD	334	421	79.01.805	AMD	334	442
79.01.680	RECD	334	558	79.01.805	RECD	334	571
79.01.684	AMD	334	422	79.01.810	AMD	53	380
79.01.684	RECD	334	558	79.01.810	AMD	334	443
79.01.688	AMD	334	423	79.01.810	RECD	334	571
79.01.688	RECD	334	558	79.01.815	AMD	334	444
79.01.692	AMD	334	424	79.01.815	RECD	334	571
79.01.692	RECD	334	558	79.08.015	AMD	334	445
79.01.696	AMD	334	425	79.08.015	RECD	334	560
79.01.696	RECD	334	558	79.08.070	AMD	334	446
79.01.704	REP	334	551	79.08.070	RECD	334	560
79.01.708	AMD	334	426	79.08.080	AMD	334	447
79.01.708	RECD	334	554	79.08.080	RECD	334	570
79.01.712	AMD	334	427	79.08.090	AMD	334	448
79.01.712	RECD	334	554	79.08.090	RECD	334	570
79.01.720	AMD	334	428	79.08.100	RECD	334	570
79.01.720	RECD	334	554	79.08.110	AMD	334	449
79.01.724	AMD	334	429	79.08.110	RECD	334	556
79.01.724	RECD	334	554	79.08.120	AMD	334	450
79.01.728	AMD	334	430	79.08.120	RECD	334	557
79.01.728	RECD	334	556	79.08.170	AMD	334	451
79.01.732	RECD	334	554	79.08.170	RECD	334	554
79.01.736	AMD	334	431	79.08.180	AMD	25 E1	939
79.01.736	RECD	334	552	79.08.180	AMD	334	452
79.01.740	AMD	334	432	79.08.180	RECD	334	560
79.01.740	RECD	334	554	79.08.190	REP	334	551
79.01.744	AMD	334	433	79.08.200	REP	334	551
79.01.744	RECD	334	555	79.08.250	AMD	334	453
79.01.748	AMD	53	379	79.08.250	RECD	334	560
79.01.748	RECD	334	554	79.08.260	AMD	334	454
79.01.752	AMD	334	434	79.08.260	RECD	334	569
79.01.752	RECD	334	554	79.08.275	AMD	334	455
79.01.756	RECD	334	554	79.08.275	AMD	334	456
79.01.760	AMD	334	435	79.08.275	RECD	334	566
79.01.760	RECD	334	554	79.08.277	AMD	334	457
79.01.765	AMD	334	436	79.08.277	RECD	334	566
79.01.765	RECD	334	554	79.08.279	AMD	334	458

RCW SECTIONS AFFECTED BY 2003 STATUTES

RCW		CH.	SEC.	RCW		CH.	SEC.
79.08.279	RECD	334	566	79.14.140	AMD	334	481
79.08.281	AMD	334	459	79.14.140	RECD	334	558
79.08.281	RECD	334	566	79.14.150	AMD	334	482
79.08.283	AMD	334	460	79.14.150	RECD	334	558
79.08.283	RECD	334	566	79.14.160	RECD	334	558
79.08.284	RECD	334	566	79.14.170	RECD	334	558
79.12.015	AMD	334	461	79.14.180	AMD	334	483
79.12.015	RECD	334	557	79.14.180	RECD	334	558
79.12.025	AMD	334	462	79.14.190	AMD	334	484
79.12.025	RECD	334	557	79.14.190	RECD	334	558
79.12.035	AMD	334	463	79.14.200	AMD	334	485
79.12.035	RECD	334	565	79.14.200	RECD	334	558
79.12.055	AMD	334	464	79.14.210	AMD	334	486
79.12.055	RECD	334	557	79.14.210	RECD	334	558
79.12.095	AMD	334	465	79.14.220	AMD	334	487
79.12.095	RECD	334	557	79.14.220	RECD	334	558
79.12.570	AMD	334	466	79.14.900	RECD	334	558
79.12.570	RECD	334	557	79.24.580	RECD	334	569
79.12.600	AMD	334	467	79.28.010	AMD	334	488
79.12.600	RECD	334	557	79.28.010	RECD	334	554
79.12.610	AMD	334	468	79.28.020	AMD	334	489
79.12.610	RECD	334	557	79.28.020	RECD	334	554
79.12.620	AMD	334	469	79.28.030	AMD	334	490
79.12.620	RECD	334	557	79.28.030	RECD	334	554
79.12.630	AMD	334	470	79.28.040	AMD	334	491
79.12.630	RECD	334	557	79.28.040	RECD	334	557
79.14	ADD	334	558	79.28.050	AMD	334	492
79.14.010	AMD	334	471	79.28.050	RECD	334	557
79.14.010	RECD	334	558	79.28.070	AMD	334	493
79.14.020	AMD	334	472	79.28.070	RECD	334	557
79.14.020	RECD	334	558	79.28.080	AMD	334	494
79.14.030	AMD	334	473	79.28.080	RECD	334	557
79.14.030	RECD	334	558	79.36	ADD	334	247,563
79.14.040	AMD	334	474	79.36.230	RECD	334	563
79.14.040	RECD	334	558	79.36.240	RECD	334	563
79.14.050	RECD	334	558	79.36.250	RECD	334	563
79.14.060	RECD	334	558	79.36.260	AMD	334	495
79.14.070	RECD	334	558	79.36.260	RECD	334	563
79.14.080	AMD	334	475	79.36.270	AMD	334	496
79.14.080	RECD	334	558	79.36.270	RECD	334	563
79.14.090	AMD	334	476	79.36.280	AMD	334	497
79.14.090	RECD	334	558	79.36.280	RECD	334	563
79.14.100	AMD	334	477	79.36.290	AMD	334	498
79.14.100	RECD	334	558	79.36.290	RECD	334	563
79.14.110	AMD	334	478	79.38	ADD	334	248
79.14.110	RECD	334	558	79.38.010	AMD	334	499
79.14.120	AMD	334	479	79.38.030	AMD	334	500
79.14.120	RECD	334	558	79.38.040	AMD	334	501
79.14.130	AMD	334	480	79.38.050	AMD	334	502
79.14.130	RECD	334	558	79.38.060	AMD	334	503

RCW SECTIONS AFFECTED BY 2003 STATUTES

RCW		CH.	SEC.	RCW		CH.	SEC.
79.40.070	AMD	334	504	79.66.040	RECD	334	561
79.40.070	RECD	334	554	79.66.050	AMD	334	529
79.40.080	AMD	334	505	79.66.050	RECD	334	561
79.40.080	RECD	334	554	79.66.060	AMD	334	530
79.44.020	AMD	334	506	79.66.060	RECD	334	561
79.44.030	AMD	334	507	79.66.070	RECD	334	561
79.44.060	AMD	334	508	79.66.080	AMD	334	531
79.44.120	AMD	334	509	79.66.080	RECD	334	561
79.60.010	AMD	334	510	79.66.090	AMD	334	532
79.60.010	RECD	334	555	79.66.090	RECD	334	561
79.60.020	AMD	334	511	79.66.100	AMD	334	533
79.60.020	RECD	334	555	79.66.100	RECD	334	561
79.60.030	AMD	334	512	79.66.900	RECD	334	561
79.60.030	RECD	334	555	79.66.901	RECD	334	561
79.60.040	AMD	334	513	79.68.010	AMD	334	534
79.60.040	RECD	334	555	79.68.010	RECD	334	555
79.60.050	AMD	334	514	79.68.020	AMD	334	535
79.60.050	RECD	334	555	79.68.020	RECD	334	555
79.60.060	AMD	334	515	79.68.030	AMD	334	536
79.60.060	RECD	334	555	79.68.030	RECD	334	555
79.60.070	AMD	334	516	79.68.035	AMD	334	537
79.60.070	RECD	334	555	79.68.035	RECD	334	555
79.60.080	AMD	334	517	79.68.040	AMD	334	538
79.60.080	RECD	334	555	79.68.040	RECD	334	555
79.60.090	AMD	334	518	79.68.045	RECD	334	555
79.60.090	RECD	334	555	79.68.050	AMD	182	2
79.64	ADD	334	207,249 564,565	79.68.050	RECD	334	555
79.64.010	AMD	334	519	79.68.060	AMD	334	539
79.64.010	RECD	334	564	79.68.060	RECD	334	555
79.64.020	AMD	334	520	79.68.070	AMD	334	540
79.64.020	RECD	334	564	79.68.070	RECD	334	555
79.64.030	AMD	334	521	79.68.080	AMD	334	541
79.64.030	RECD	334	564	79.68.080	RECD	334	569
79.64.040	AMD	313	8	79.68.090	AMD	334	542
79.64.040	AMD	334	522	79.68.090	RECD	334	555
79.64.040	RECD	334	564	79.68.100	AMD	334	543
79.64.050	AMD	334	523	79.68.100	RECD	334	555
79.64.050	RECD	334	564	79.68.110	AMD	334	544
79.64.060	RECD	334	564	79.68.110	RECD	334	555
79.64.070	RECD	334	564	79.68.120	AMD	334	545
79.64.090	AMD	334	524	79.68.120	RECD	334	555
79.64.090	RECD	334	564	79.68.900	AMD	334	546
79.66.010	AMD	334	525	79.68.900	RECD	334	555
79.66.010	RECD	334	561	79.68.910	AMD	334	547
79.66.020	AMD	334	526	79.68.910	RECD	334	555
79.66.020	RECD	334	561	79.70.020	AMD	334	548
79.66.030	AMD	334	527	79.70.030	AMD	334	549
79.66.030	RECD	334	561	79.70.090	AMD	334	550
79.66.040	AMD	334	528	79.76.010	RECD	334	567
				79.76.020	RECD	334	567

RCW SECTIONS AFFECTED BY 2003 STATUTES

RCW	CH.	SEC.	RCW	CH.	SEC.
79.76.030	RECD	334	567	79.91.030	AMD 334 608
79.76.040	RECD	334	567	79.91.040	AMD 334 609
79.76.050	RECD	334	567	79.91.050	AMD 334 610
79.76.060	AMD	39	40	79.91.060	AMD 334 611
79.76.060	RECD	334	567	79.91.080	AMD 334 612
79.76.070	RECD	334	567	79.91.190	AMD 334 613
79.76.080	RECD	334	567	79.91.210	AMD 334 614
79.76.090	RECD	334	567	79.94	ADD 334 570
79.76.100	RECD	334	567	79.94.390	AMD 39 42
79.76.110	RECD	334	567	79.94.450	AMD 334 615
79.76.120	RECD	334	567	79.96	ADD 334 571
79.76.130	RECD	334	567	79.96.080	AMD 39 43
79.76.140	RECD	334	567	79A.05.070	AMD 186 1
79.76.150	RECD	334	567	79A.05.165	AMD 53 382
79.76.160	RECD	334	567	79A.05.380	AMD 338 1
79.76.170	RECD	334	567	79A.05.385	AMD 126 601
79.76.180	RECD	334	567	79A.05.385	AMD 338 2
79.76.190	RECD	334	567	79A.05.400	AMD 126 602
79.76.200	RECD	334	567	79A.05.400	REP 338 5
79.76.210	RECD	334	567	79A.05.405	REP 338 5
79.76.220	RECD	334	567	79A.05.410	AMD 126 603
79.76.230	RECD	334	567	79A.05.410	AMD 338 3
79.76.240	RECD	334	567	79A.05.420	REP 126 604
79.76.250	RECD	334	567	79A.05.420	REP 338 5
79.76.260	RECD	334	567	79A.05.630	AMD 26 E1 929
79.76.270	RECD	334	567	79A.15.050	AMD 184 1
79.76.280	RECD	334	567	79A.25.070	AMD 361 409
79.76.290	AMD	53	381	79A.25.240	AMD 39 44
79.76.290	RECD	334	567	79A.25.800	AMD 126 701
79.76.300	RECD	334	567	79A.25.810	REP 126 703
79.76.900	RECD	334	567	79A.25.820	AMD 126 702
79.81.010	RECD	334	568	79A.60.010	AMD 39 45
79.81.020	RECD	334	568	80.01.080	AMD 25 E1 940
79.81.030	RECD	334	568	80.04.130	AMD 189 1
79.81.040	RECD	334	568	80.24.010	AMD 296 1
79.81.050	RECD	334	568	80.28.190	AMD 53 383
79.81.060	RECD	334	568	80.28.210	AMD 53 384
79.81.900	RECD	334	568	80.36.005	AMD 134 1
79.90	ADD	176	1	80.36.110	AMD 189 2
79.90	ADD	334	569	80.36.320	AMD 189 3
79.90.150	AMD	39	41	80.36.330	AMD 189 4
79.90.215	AMD	28	1	80.36.410	AMD 134 2
79.90.270	AMD	334	601	80.36.420	AMD 134 3
79.90.325	AMD	334	602	80.36.430	AMD 134 4
79.90.330	AMD	334	603	80.36.440	AMD 134 5
79.90.340	AMD	334	604	80.36.450	AMD 134 6
79.90.380	AMD	334	605	80.36.460	AMD 134 7
79.90.400	AMD	334	606	80.36.470	AMD 134 8
79.90.480	AMD	310	1	80.36.475	AMD 134 9
79.91.010	AMD	334	607	81.04.390	AMD 53 385

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RCW	CH.	SEC.	RCW	CH.	SEC.		
81.24.010	AMD	296	2	82.04	ADD	339	12
81.24.020	AMD	296	3	82.04	ADD	343	1
81.24.030	AMD	296	4	82.04.040	AMD	168	103
81.40.010	AMD	53	386	82.04.050	AMD	168	104
81.40.030	REP	53	421	82.04.120	AMD	168	604
81.40.040	AMD	53	387	82.04.180	AMD	13	E1 11
81.40.050	REP	53	421	82.04.215	AMD	168	601
81.40.060	AMD	53	388	82.04.240	AMD	149	3
81.40.070	REP	53	421	82.04.250	REMD	1	E2 2
81.40.080	AMD	53	389	82.04.250	REMD	2	E1 1
81.40.090	REP	53	421	82.04.260	AMD	1	E2 3
81.40.120	REP	53	421	82.04.260	AMD	1	E2 4
81.40.130	AMD	53	390	82.04.260	AMD	261	11
81.40.140	REP	53	421	82.04.260	AMD	339	11
81.44.085	AMD	53	391	82.04.270	AMD	1	E2 5
81.53.271	AMD	190	2	82.04.272	AMD	168	401
81.53.281	AMD	190	3	82.04.280	AMD	149	4
81.54.030	AMD	53	392	82.04.290	AMD	343	2
81.56.150	AMD	53	393	82.04.29001	AMD	168	602
81.60.070	AMD	53	394	82.04.4289	AMD	168	402
81.60.080	AMD	53	395	82.04.440	AMD	1	E2 6
81.60.090	REP	53	421	82.04.4453	REP	364	10
81.64.090	AMD	53	396	82.04.4454	REP	364	10
81.64.100	REP	53	421	82.04.470	AMD	168	204
81.64.110	REP	53	421	82.08	ADD	1	E2 9,11
81.64.160	AMD	53	397	82.08	ADD	63	2
81.64.170	REP	53	421	82.08	ADD	149	5,7
81.68.080	AMD	53	398	82.08	ADD	168	210,302
81.77.080	AMD	296	5				404,405
81.84.010	AMD	83	211				410,703
81.84.010	AMD	373	4	82.08	ADD	339	13
81.84.020	AMD	83	212	82.08.010	AMD	168	101
81.84.020	AMD	373	5	82.08.020	AMD	361	301
81.84.060	AMD	83	213	82.08.02566	AMD	168	208
81.84.060	AMD	373	6	82.08.0273	AMD	53	399
81.104.160	AMD	1	6	82.08.0281	AMD	168	403
81.112	ADD	363	306	82.08.0283	AMD	168	409
82	ADD	16	E1 1-3	82.08.0293	AMD	168	301
82	ADD	261	1-8	82.08.037	AMD	168	212
			13,14	82.08.050	AMD	53	400
82	ADD	339	1-8	82.08.050	AMD	76	3
82	ADD	364	1-8	82.08.050	AMD	168	203
82.02	ADD	168	1,701	82.08.064	AMD	168	205
			801	82.08.064	AMD	361	304
82.04	ADD	1	E2 7,8	82.08.150	AMD	167	11
			15	82.12	ADD	1	E2 10
82.04	ADD	63	1				12
82.04	ADD	76	2	82.12	ADD	5	17
82.04	ADD	149	2,9	82.12	ADD	63	3
82.04	ADD	168	702	82.12	ADD	149	6,8

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82.12	ADD	168	304,407 408,411 704	82.24	ADD	114	6
				82.24.020	AMD	114	1
				82.24.030	AMD	114	2
82.12	ADD	339	14	82.24.040	AMD	114	3
82.12.010	AMD	5	1	82.24.050	AMD	114	4
82.12.010	AMD	168	102	82.24.110	AMD	114	5
82.12.020	AMD	5	2	82.24.130	AMD	25	9
82.12.020	AMD	168	214	82.24.130	AMD	113	4
82.12.020	AMD	361	302	82.24.130	AMD	114	7
82.12.0251	AMD	5	18	82.24.145	AMD	25	10
82.12.0252	REP	5	19	82.24.210	AMD	25	11
82.12.0254	AMD	5	3	82.24.250	AMD	114	8
82.12.0255	AMD	5	4	82.24.260	AMD	114	9
82.12.02565	AMD	5	5	82.24.500	AMD	114	10
82.12.02566	AMD	168	209	82.27.060	AMD	13 E1	10
82.12.02567	AMD	5	6	82.27.070	AMD	39	46
82.12.0259	AMD	5	7	82.29A	ADD	1 E2	13
82.12.02595	AMD	5	11	82.29A.135	AMD	261	10
82.12.0275	AMD	168	406	82.29A.135	AMD	339	10
82.12.0277	AMD	5	8	82.32	ADD	1 E2	16
82.12.0277	AMD	168	412				17
82.12.0279	AMD	5	9	82.32	ADD	2 E1	2
82.12.0284	AMD	168	603	82.32	ADD	13 E1	15
82.12.0293	AMD	168	303	82.32	ADD	149	11
82.12.0315	AMD	5	10	82.32	ADD	168	211,213
82.12.040	AMD	76	4				501
82.12.040	AMD	168	215	82.32.020	AMD	13 E1	16
82.12.045	AMD	361	303	82.32.045	AMD	13 E1	8
82.12.060	AMD	168	216	82.32.050	AMD	73	1
82.12.810	AMD	5	12	82.32.060	AMD	73	2
82.12.820	AMD	5	13	82.32.090	AMD	13 E1	13
82.12.840	AMD	5	14	82.32.140	AMD	13 E1	12
82.12.890	AMD	5	15	82.32.430	AMD	168	207
82.12.900	AMD	5	16	82.36	ADD	358	1-6
82.14	ADD	24 E1	2	82.36.025	REMD	361	401
82.14	ADD	83	207	82.36.306	REP	358	15
82.14.020	AMD	168	503	82.36.330	AMD	53	401
82.14.020	REMD	168	502	82.36.380	AMD	358	13
82.14.050	AMD	83	208	82.36.400	AMD	53	402
82.14.050	AMD	168	201	82.36.440	AMD	350	5
82.14.055	AMD	168	206	82.38	ADD	358	7-12
82.14.070	AMD	168	202	82.38.030	AMD	361	402
82.14.200	AMD	25 E1	941	82.38.035	AMD	361	405
82.14.210	AMD	25 E1	942	82.38.047	AMD	361	406
82.14.330	AMD	90	1	82.38.182	REP	358	15
82.14.335	REP	90	2	82.38.270	AMD	358	14
82.16.048	REP	364	10	82.38.280	AMD	350	6
82.16.049	REP	364	10	82.42.020	AMD	375	5
82.19.050	AMD	120	1	82.42.025	REP	375	6
82.23B.020	AMD	13 E1	9	82.44.041	REP	1	5

“E1” Denotes 2003 1st special session

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“E2” Denotes 2003 2nd special session

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RCW		CH.	SEC.	RCW		CH.	SEC.
82.44.110	REP	1	5	85.38	ADD	327	17
82.44.120	AMD	53	403	85.38.180	AMD	392	1
82.44.150	REP	1	5	86.09	ADD	327	18
82.45.090	AMD	53	404	86.15	ADD	327	19
82.49.065	AMD	53	405	86.15.050	AMD	304	1
82.50.170	AMD	53	406	86.15.160	AMD	394	8
82.80	ADD	83	206	86.26.007	AMD	25 E1	943
82.80	ADD	350	2,3	87.03	ADD	327	15
82.80.010	AMD	350	1	87.03.200	AMD	53	411
82.80.020	REP	1	8	87.03.490	AMD	53	412
84.08.050	AMD	53	407	87.80	ADD	306	4
84.33.035	REMD	313	12	87.80.005	AMD	306	1
84.33.078	AMD	313	11	87.80.030	AMD	306	2
84.33.088	AMD	315	1	87.80.130	AMD	306	3
84.33.120	REP	170	7	88.02.055	AMD	53	413
84.33.130	REMD	170	4	88.02.118	AMD	53	414
84.33.140	REMD	170	5	88.08.020	AMD	53	415
84.33.210	AMD	394	7	88.08.050	AMD	53	416
84.34.108	REMD	170	6	88.16.010	AMD	58	1
84.36	ADD	1 E2	14	88.40.011	AMD	56	2
84.36	ADD	149	10	88.40.020	AMD	56	3
84.36	ADD	261	9	88.40.020	AMD	91	3
84.36	ADD	339	9	88.40.040	AMD	56	4
84.36	ADD	344	1	88.46.080	AMD	53	417
84.36.060	AMD	121	1	89.08.470	AMD	39	47
84.36.310	AMD	302	6	90.03	ADD	5 E1	2,3
84.36.387	AMD	53	408				14-17
84.36.630	AMD	302	7	90.03.015	AMD	5 E1	1
84.36.805	AMD	121	2	90.03.247	AMD	39	48
84.36.810	AMD	344	2	90.03.260	AMD	5 E1	4
84.40.040	AMD	302	1	90.03.265	AMD	70	6
84.40.060	AMD	302	2	90.03.330	AMD	5 E1	6
84.40.070	AMD	302	3	90.03.370	AMD	329	1
84.40.120	AMD	53	409	90.03.380	AMD	329	2
84.40.190	AMD	302	4	90.03.386	AMD	5 E1	5
84.40.335	AMD	302	5	90.03.400	AMD	15 E1	2
84.40.340	AMD	53	410	90.03.400	AMD	53	418
84.40.410	AMD	169	1	90.03.600	AMD	15 E1	3
84.52.010	REMD	83	310	90.42	ADD	144	2-6
84.52.043	AMD	83	311	90.42.005	AMD	144	1
84.52.052	REMD	83	312	90.44	ADD	307	2
84.52.068	AMD	19 E1	1	90.44.050	AMD	307	1
84.55.050	AMD	24 E1	4	90.44.100	AMD	329	3
84.56.025	AMD	12	1	90.46.120	AMD	5 E1	13
84.56.120	AMD	23	2	90.48	ADD	15 E1	1
84.56.340	AMD	23	3	90.48	ADD	210	1,2
84.64.060	AMD	23	4	90.48.112	AMD	5 E1	12
84.64.080	REMD	23	5	90.48.140	AMD	53	419
84.69.050	AMD	23	6	90.48.260	AMD	325	7
84.69.070	AMD	23	7	90.48.495	AMD	5 E1	11

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<u>RCW</u>		<u>CH.</u>	<u>SEC.</u>	<u>RCW</u>	<u>CH.</u>	<u>SEC.</u>
90.54	ADD	5	E1 10			
90.56	ADD	264	3			
90.56.300	AMD	53	420			
90.58.030	AMD	321	2			
90.58.060	AMD	262	1			
90.58.080	AMD	262	2			
90.58.090	AMD	321	3			
90.58.147	AMD	39	49			
90.58.180	AMD	393	22			
90.58.190	AMD	321	4			
90.58.250	AMD	262	3			
90.64	ADD	325	6			
90.64.030	AMD	325	3			
90.64.120	AMD	325	4			
90.64.150	AMD	325	5			
90.82	ADD	4	E1 3			
90.82	ADD	5	E1 9			
90.82.040	AMD	4	E1 2			
90.82.060	AMD	328	1			
90.82.080	AMD	4	E1 4			
90.82.130	AMD	4	E1 5			

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LAWS 1907			LAWS 2003		LAWS 2002			LAWS 2003	
<u>Ch.</u>	<u>Sec.</u>	<u>Action</u>	<u>Ch.</u>	<u>Sec.</u>	<u>Ch.</u>	<u>Sec.</u>	<u>Action</u>	<u>Ch.</u>	<u>Sec.</u>
123	2	AMD	29	2	10	2	AMD	266	1
LAWS 1987			LAWS 2003		67	18	AMD	168	902
<u>Ch.</u>	<u>Sec.</u>	<u>Action</u>	<u>Ch.</u>	<u>Sec.</u>	104	4	REP	134	11
229	12	REP	134	10	130	5	REP	159	5
LAWS 1990			LAWS 2003		130	6	REP	159	5
<u>Ch.</u>	<u>Sec.</u>	<u>Action</u>	<u>Ch.</u>	<u>Sec.</u>	130	7	REP	159	5
170	8	REP	134	10	238	109	AMD	10	904
LAWS 1993			LAWS 2003		238	202	AMD	10	901
<u>Ch.</u>	<u>Sec.</u>	<u>Action</u>	<u>Ch.</u>	<u>Sec.</u>	238	204	REP	10	909
249	3	REP	134	10	238	223	AMD	10	905
LAWS 1998			LAWS 2003		242	1	AMD	150	1
<u>Ch.</u>	<u>Sec.</u>	<u>Action</u>	<u>Ch.</u>	<u>Sec.</u>	268	10	AMD	67	2
159	1	REP	134	10	290	30	AMD	379	9
LAWS 1999			LAWS 2003		290	31	AMD	379	10
<u>Ch.</u>	<u>Sec.</u>	<u>Action</u>	<u>Ch.</u>	<u>Sec.</u>	359	205	AMD	360	1201
159	1	REP	134	10	359	207	AMD	360	1202
LAWS 2000			LAWS 2003		359	208	AMD	360	1203
<u>Ch.</u>	<u>Sec.</u>	<u>Action</u>	<u>Ch.</u>	<u>Sec.</u>	359	210	AMD	360	1204
320	6	REP	159	5	359	211	AMD	360	1205
LAWS 2001			LAWS 2003		359	212	AMD	360	1206
<u>Ch.</u>	<u>Sec.</u>	<u>Action</u>	<u>Ch.</u>	<u>Sec.</u>	359	213	AMD	360	1207
160	4	REP	159	5	359	215	AMD	360	1208
204	2	REP	46	1	359	216	AMD	360	1302
LAWS 2001 2ND SP.S.			LAWS 2003		359	223	AMD	360	1209
<u>Ch.</u>	<u>Sec.</u>	<u>Action</u>	<u>Ch.</u>	<u>Sec.</u>	359	225	AMD	360	1210
7		ADD	10	705	359	226	AMD	360	1211
7	202	AMD	207	10	359	401	AMD	360	1401
7	205	AMD	207	11	359	402	AMD	360	1402
7	207	AMD	207	12	359	403	AMD	360	1403
7	506	AMD	10	505	371	112	AMD	10	101
8	131	AMD	9	2	371	113	AMD	10	102
8	158	AMD	10	902	371	114	AMD	10	103
8	172	AMD	10	903	371	118	AMD	10	104
8	352	AMD	10	908	371	119	AMD	10	105
8	658	AMD	10	906	371	122	AMD	10	106
8	668	AMD	10	907	371	125	AMD	10	107
14		ADD	360	1405	371	127	AMD	10	108
14	303	AMD	360	1301	371	128	AMD	10	109
LAWS 2001			LAWS 2003		371	132	AMD	10	110
<u>Ch.</u>	<u>Sec.</u>	<u>Action</u>	<u>Ch.</u>	<u>Sec.</u>	371	133	AMD	10	111
8	209	AMD	26	231	371	135	AMD	10	112
8	817	AMD	26	754	371	137	AMD	10	113
2ND SP.S.			1ST SP.S.		371	139	AMD	10	114
<u>Ch.</u>	<u>Sec.</u>	<u>Action</u>	<u>Ch.</u>	<u>Sec.</u>	371	143	AMD	10	115
8	209	AMD	26	231	371	145	AMD	10	116
8	817	AMD	26	754	371	201	AMD	10	201
					371	202	AMD	10	202
					371	203	AMD	10	203
					371	204	AMD	10	204

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371	205	AMD	10	205	371	703	AMD	10	702
371	206	AMD	10	206	371	704	AMD	10	703
371	207	AMD	10	207	371	712	AMD	10	704
371	208	AMD	10	208	371	719	AMD	10	708
371	209	AMD	10	209	371	726	AMD	10	709
371	210	AMD	10	210	371	727	AMD	10	710
371	211	AMD	10	211	371	802	AMD	10	801
371	212	AMD	10	212					
371	213	AMD	10	213	LAWS 2003			LAWS 2003	
371	216	AMD	10	214				IST SP.S.	
371	218	AMD	10	215	<u>Ch.</u>	<u>Sec.</u>	<u>Action</u>	<u>Ch.</u>	<u>Sec.</u>
371	219	AMD	10	216	10	209	AMD	25	227
371	220	AMD	10	217	10	218	AMD	25	223
371	221	AMD	10	218	10	708	AMD	25	716
371	222	AMD	10	219	360		ADD	25	726
371	224	AMD	10	220	360	306	AMD	26	506
371	302	AMD	10	301	360	307	AMD	26	507
371	303	AMD	10	302	360	309	AMD	26	508
371	307	AMD	10	303	360	408	REP	25	725
371	308	AMD	10	304					
371	309	AMD	10	305					
371	401	AMD	10	401					
371	402	AMD	10	402					
371	501	AMD	10	501					
371	502	AMD	10	502					
371	504	AMD	10	503					
371	505	AMD	10	504					
371	506	AMD	10	506					
371	507	AMD	10	507					
371	509	AMD	10	508					
371	510	AMD	10	509					
371	511	AMD	10	510					
371	512	AMD	10	511					
371	513	AMD	10	512					
371	514	AMD	10	513					
371	515	AMD	10	514					
371	516	AMD	10	515					
371	518	AMD	10	516					
371	604	AMD	10	601					
371	605	AMD	10	602					
371	606	AMD	10	603					
371	607	AMD	10	604					
371	608	AMD	10	605					
371	609	AMD	10	606					
371	610	AMD	10	607					
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HISTORY OF STATE MEASURES FILED WITH THE SECRETARY OF STATE

INITIATIVES TO THE PEOPLE

(SUPPLEMENTING 2002 LAWS, PAGE 2318)

- *INITIATIVE MEASURE NO. 776 (Statement of the Subject: Initiative Measure No. 776 concerns state and local government charges on motor vehicles. Concise Description: This measure would require license tag fees to be \$30 per year for motor vehicles, including light trucks. Certain local-option vehicle excise taxes and fees used for roads and transit would be repealed.)**—Filed on January 7, 2002 by Tim D. Eymann of Mukilteo, Ray D. Benham of Kennewick, M. J. Fagan of Spokane, & Leo J. Fagan Spokane. 260,898 signatures were submitted and found sufficient. The measure was submitted to the voters at the November 5, 2002 general election and approved by the following vote: **For - 901,478 Against - 849,986.**
- INITIATIVE MEASURE NO. 777 (Statement of the Subject: Initiative Measure No. 777 concerns employer-employee labor agreements. Concise Description: This measure would prohibit any employer from requiring employees to belong or not to belong to a labor organization, or from requiring employees to pay union dues or representation costs instead of dues.)**—Filed on January 7, 2002 by Jason C. Smosna of Seattle. No signature petitions presented for checking.
- INITIATIVE MEASURE NO. 778 (Statement of the Subject: Initiative Measure No. 778 concerns repealing laws that authorize property forfeiture. Concise Description: This measure would repeal state laws that authorize the seizure and forfeiture of property relating to crimes such as illegal gambling, making or selling illegal drugs, child pornography, tax evasion, and money laundering.)**—Filed on January 22, 2002 by Ernest R. Lewis of Olympia. This initiative was withdrawn by the sponsor.
- INITIATIVE MEASURE NO. 779 (Statement of the Subject: Initiative Measure No. 779 concerns providing bonus compensation to teachers based on parent ratings. Concise Description: This measure would provide yearly bonus payments for public school teachers who are rated highly by students' parents and guardians, calculated as a percentage of average teacher salary, and paid by the state.)**—Filed on January 18, 2002 by Donald D. Hansler of Spanaway. No signature petitions presented for checking.
- INITIATIVE MEASURE NO. 780 (Statement of the Subject: Initiative Measure No. 780 concerns testing requirements for candidates for public office. Concise Description: This measure would require candidates for most elective offices to complete the tenth grade Washington assessment of student learning before filing for office. Scores would be publicly available and in the voters' pamphlet.)**—Filed on January 9, 2002 by David Marshak of Seattle. No signature petitions presented for checking.
- INITIATIVE MEASURE NO. 781 (Statement of the Subject: Initiative Measure No. 781 concerns penalties for officers who seek to weaken initiative measures. Concise Description: This measure would set penalties for any legislator or officer who attempts to overturn or weaken an initiative measure; immediate expulsion from office, five years' imprisonment, and permanent ineligibility to hold public office.)**—Filed on January 14, 2002 by David A. Whitman of Seattle. No signature petitions presented for checking.
- INITIATIVE MEASURE NO. 782 (Statement of the Subject: Initiative Measure No. 782**

INITIATIVES TO THE PEOPLE

concerns allocating tax shares according to wealth. **Concise Description:** This measure would declare that a tiny percentage of individuals and corporations possess 95% of the state's money, and would require that this group pay 95% of all state, county, and city taxes.)—Filed on January 14, 2002 by David A. Whitman of Seattle. No signature petitions presented for checking.

INITIATIVE MEASURE NO. 783 (Statement of the Subject: Initiative Measure No. 783 concerns limiting campaign contributions to those entitled to vote. Concise Description: This measure would prohibit any person from contributing to an election campaign except those entitled to vote in the election, prohibit corporate campaign contributions, and prohibit use of non-voter funds for political advertising.)—Filed on January 28, 2002 by Roger D. Whitten of Oakesdale. No signature petitions presented for checking.

INITIATIVE MEASURE NO. 784 (Statement of the Subject: Initiative Measure No. 784 concerns property forfeiture arising from controlled substances laws. Concise Description: This measure would make numerous changes to laws forfeiting property connected with drug crimes, including a requirement of conviction of all owners, additional hearings, and requiring sale, not government use, of forfeited property.)—Filed on February 8, 2002 by Ernest R. Lewis of Olympia and Richard Shepard of Fircrest. No signature petitions presented for checking.

INITIATIVE MEASURE NO. 785 (Statement of the Subject: Initiative Measure No. 785 concerns geographic limitations on distribution of transportation funds. Concise Description: This measure would generally require that vehicle fuel taxes, vehicle licensing fees, fares, tolls, and voter-approved taxes be spent for roads, bridges, and mass transit systems in the county where they are collected.)—Filed on February 5, 2002 by Brandon Scott Durham of Seattle. No signature petitions presented for checking.

INITIATIVE MEASURE NO. 786 (Statement of the Subject: Initiative Measure No. 786 concerns rights, activities or privileges afforded Washington tribes. Concise Description: This measure would declare that any right, activity or privilege afforded the tribes of Washington state would be shared equally and in common with the citizens of Washington state.)—Filed on February 15, 2002 by Omer J. Lupien of Oak Harbor. No signature petitions presented for checking.

INITIATIVE MEASURE NO. 787 (Statement of the Subject: Initiative Measure No. 787 concerns extending the sales and use taxes to motor vehicle fuel. Concise Description: This measure would extend the sales and use taxes to fuels subject to motor vehicle or special fuel taxes, and to fuels used for public transportation or for transporting persons with special needs.)—Filed on February 15, 2002 by Alan C. Harvey of Seattle. No signature petitions presented for checking.

INITIATIVE MEASURE NO. 788 (Statement of the Subject: Initiative Measure No. 788 concerns limiting credit card interest. Concise Description: This measure would provide that the amount of interest charged for credit card balances could not exceed 12 percent per year.)—Filed on February 22, 2002 by Michael J. Thompson of Seattle. No signature petitions presented for checking.

INITIATIVE MEASURE NO. 789 (Statement of the Subject: Initiative Measure No. 789 concerns the operation of individual schools within public school districts. Concise Description: This measure would establish a system for funding public education through allocations to individual schools. Each school principal would develop and manage the school's budget, subject to school board approval and state audit.)—Filed on February 27, 2002 by Thomas G. Erickson of Vancouver. No signature petitions presented for checking.

***INITIATIVE MEASURE NO. 790 (Statement of the Subject: Initiative Measure No. 790 concerns law enforcement officers' and fire fighters' retirement system, plan 2. Concise**

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Description: This measure would place management of the law enforcement officers' and fire fighters' retirement system, plau 2, in a board of trustees consisting of six plan participants, three employer representatives, and two legislators.)—Filed on March 5, 2002 by Kelly L. Fox and Harold W. Hanson of Olympia. 345,543 signatures were submitted and found sufficient. The measure was submitted to the voters at the November 5, 2002 general election and approved by the following vote: For - 903,113 Against - 800,105.

INITIATIVE MEASURE NO. 791 (Statement of the Subject: Initiative Measure No. 791 concerns the state expenditure limit. Concise Description: This measure would extend state expenditure limits to additional accounts and re-enact and expand the two thirds legislative vote requirement to raise revenue. Reserve levels would be increased and excess amounts would be redistributed.)—Filed on March 13, 2002 by Stephanie A. Linklater of North Bend. No signature petitions presented for checking.

INITIATIVE MEASURE NO. 792 (Statement of the Subject: Initiative Measure No. 792 concerns vehicular assault while driving under the influence. Concise Description: This measure would make it a class A felony for anyone to operate or drive any vehicle while under the influence of intoxicating liquor or any drug, and cause bodily harm to another.)—Filed on March 14, 2002 by Allan Geoffrey Dyer of Kent. No signature petitions presented for checking.

INITIATIVE MEASURE NO. 793 (Statement of the Subject: Initiative Measure No. 793 concerns the operation of individual schools within public school districts. Concise Description: This measure would establish a system for funding education, in larger school districts, through allocations to individual schools. District central administrative funding would be reduced. Each principal would manage the individual school's budget.)—Filed on April 2, 2002 by Thomas G. Erickson of Vancouver. No signature petitions presented for checking.

INITIATIVE MEASURE NO. 794 (Statement of the Subject: Initiative Measure No. 794 concerns the creation of a state health benefits system. Concise Description: This measure would create a Washington health security trust. This agency would develop and administer a single health benefits package for state residents, funded by mandatory premiums, employer assessments, existing taxes, and co-payments.)—Filed on March 29, 2002 by Harry Abbott of Everett. No signature petitions presented for checking.

INITIATIVE MEASURE NO. 795 (Statement of the Subject: Initiative Measure No. 795 concerns establishing a pension management board for Washington public employees. Concise Description: This measure would create a participant-elected pension management board to manage most state retirement systems, and would redefine the duties of agencies, including the state investment board and the department of retirement systems.)—Filed on April 3, 2002 by David A. Thurman of Bellingham, Kathleen L. Reim of Sedro-Woolley & Monte E. Bianchi of Mt. Vernon. This initiative was withdrawn by the sponsors.

INITIATIVE MEASURE NO. 796 (Statement of the Subject: Initiative Measure No. 796 concerns replacing "Washington" with "Cascadia" in the Revised Code of Washington. Concise Description: This measure would replace any reference to "Washington" in the Revised Code of Washington with "Cascadia". Abbreviations for "Washington" would be replaced with abbreviations for "Cascadia".)—Filed on April 4, 2002 by David John Anderson of Seattle. No signature petitions were presented for checking.

INITIATIVE MEASURE NO. 797 (Statement of the Subject: Initiative Measure No. 797 concerns establishing a pension management board for state retirement systems. Concise Description: This measure would create a participant-elected pension management board to manage most state retirement systems, and would redefine the duties of agencies, including the state investment board and the department of

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retirement systems.)—Filed on April 24, 2002 by David A. Thurman of Bellingham. No signature petitions were presented for checking.

INITIATIVE MEASURE NO. 798 (Statement of the Subject: Initiative Measure No. 798 concerns the operation of individual schools within public school districts. Concise Description: This measure would establish a system for funding education through allocations to individual schools and reductions in central administrative expenses. Each principal would manage the school's budget, subject to audit and board approval.)—Filed on April 26, 2002 by Thomas G. Erickson of Vancouver. No signature petitions were presented for checking.

INITIATIVE MEASURE NO. 799 (Statement of the Subject: Initiative Measure No. 799 concerns the operation of individual schools within public school districts. Concise Description: This measure would establish a system for funding education through allocations to individual schools and reductions in central administrative expenses. Each principal would manage the school's budget, subject to audit and board approval.)—Filed on May 24, 2002 by Thomas G. Erickson of Vancouver. No signature petitions were presented for checking.

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(SUPPLEMENTING 2002 LAWS, PAGE 2340)

- INITIATIVE TO THE LEGISLATURE NO. 262 (Statement of the Subject: Initiative Measure No. 262 concerns health care financing. Concise Description: This measure would create a health care finance commission, appointed by the governor. The commission would propose a unified health services financing system for all Washington residents, for submission to the 2005 Legislature.)—Filed on March 18, 2002 by Stuart J. Bramhall of Seattle. No signature petitions were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 263 (Statement of the Subject: Initiative Measure No. 263 concerns replacing "Washington" with "Cascadia" in the Revised Code of Washington. Concise Description: This measure would replace any reference to "Washington" in the Revised Code of Washington with "Cascadia". Abbreviations for "Washington" would be replaced with abbreviations for "Cascadia").—Filed on May 29, 2002 by David J. Anderson of Seattle. No signature petitions were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 264 (Statement of the Subject: Initiative Measure No. 264 concerns transportation financing. Concise Description: This measure would direct that all revenue from state sales tax collected on the sale of motor vehicles be placed in the motor vehicle fund, which is used for road and highway purposes.)—Filed on July 5, 2002 by Ray DeMonte Benham of Kennewick. No signature petitions were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 265 (Statement of the Subject: Initiative Measure No. 265 concerns transportation. Concise Description: This measure would direct that state sales tax on vehicles be placed in the motor vehicle fund, require performance audits on transportation agencies, and open carpool lanes to all vehicles in off-peak hours.)—Filed on July 23, 2002 by Tim D. Eyman of Mukilteo, Ray D. Benham of Kennewick, Leo J. Fagan of Spokane and Michael J. Fagan of Spokane. This initiative was withdrawn by the sponsors.
- INITIATIVE TO THE LEGISLATURE NO. 266 (Statement of the Subject: Initiative Measure No. 266 concerns regulation of attorneys. Concise Description: This measure would create an appointed review board to govern the state bar association and regulate attorneys at law, and would repeal existing laws concerning the bar association and the practice of law.)—Filed on July 31, 2002 by Allan L. Robinson of Olympia. No signature petitions were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 267 (Statement of the Subject: Initiative Measure No. 267 concerns funding, auditing and modifying transportation. Concise Description: This measure would redirect state sales and use taxes on motor vehicles to highway purposes rather than other governmental purposes, require transportation agency performance audits, and open carpool lanes during non-peak hours.)—Filed on August 8, 2002 by Tim D. Eyman of Mukilteo, Ray D. Benham of Kennewick, Leo J. Fagan of Spokane and M. J. Fagan of Spokane. No signature petitions were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 268 (Statement of the Subject: Initiative Measure No. 268 concerns electronic mail communications. Concise Description: This measure would make it unlawful to intercept or record any private communication transmitted by e-mail between two or more points within or without the state, without obtaining the consent of all participants.)—Filed on August 5, 2002 by David M. Reeve of Kirkland. No signature petitions were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 269 (Statement of the Subject: Initiative Measure No. 269 concerns limiting increases in local government revenues to reduce property taxes. Concise Description: This measure would limit general fund revenue increases for certain local governments to 1% per year, excluding new voter-approved increases,

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and would use revenues collected above this limit to reduce property tax levies.)—Filed on August 23, 2002 by Tim D. Eyman of Mukilteo. No signature petitions were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 270 (**Statement of the Subject: Initiative Measure No. 270 concerns limiting increases in city, town, and county revenues. Concise Description: This measure would limit general fund revenue increases for cities, towns, and counties to 1% per year, excluding new voter-approved increases, with revenues collected above this limit used to reduce property tax levies.**)—Filed on September 24, 2002 by Tim D. Eyman of Mukilteo. No signature petitions were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 271 (**Statement of the Subject: Initiative Measure No. 271 concerns ergonomics regulations. Concise Description: This measure would repeal existing state ergonomics regulations and would direct the department of labor and industries not to adopt new ergonomics regulations unless a uniform federal standard is required.**)—Filed on September 24, 2002 by Tim D. Eyman of Mukilteo. No signature petitions were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 272 (**Statement of the Subject: Initiative Measure No. 272 concerns state agency administrative rules. Concise Description: This measure would direct the legislature to review all administrative rules adopted by state agencies. Rules not enacted as legislative bills would become void, according to a schedule set forth in this measure.**)—Filed on September 24, 2002 by Tim D. Eyman of Mukilteo. No signature petitions were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 273 (**Statement of the Subject: Initiative Measure No. 273 concerns city, town, and county revenues. Concise Description: This measure would limit general fund revenue increases for cities, towns, and counties to 1% per year, excluding new voter-approved increases, and use revenues collected above this limit to reduce property tax levies.**)—Filed on October 4, 2002 by Tim D. Eyman of Mukilteo. No signature petitions were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 274 (**Relating to reestablishing Initiative #601.**)—Filed on October 10, 2002 by Tim D. Eyman of Mukilteo. This initiative was withdrawn by the sponsor before a ballot title was prepared.

INITIATIVE TO THE LEGISLATURE NO. 275 (**Relating to reestablishing Initiative #601.**)—Filed on October 21, 2002 by Tim D. Eyman of Mukilteo. This initiative was withdrawn by the sponsor before a ballot title was prepared.

INITIATIVE TO THE LEGISLATURE NO. 276 (**Relating to reestablishing Initiative #601.**)—Filed on October 29, 2002 by Tim D. Eyman of Mukilteo. This initiative was withdrawn by the sponsor before a ballot title was prepared.

INITIATIVE TO THE LEGISLATURE NO. 277 (**Statement of the Subject: Initiative Measure No. 277 concerns state and local government fiscal matters. Concise Description: This measure would require either voter approval or legislative approval by a three-fourths vote for state, county, and city actions that raise revenue or require revenue-neutral tax shifts, as defined in the measure.**)—Filed on November 12, 2002 by Tim D. Eyman of Mukilteo, M. J. Fagan of Spokane and Leo J. Fagan of Spokane. This initiative was withdrawn by the sponsors.

INITIATIVE TO THE LEGISLATURE NO. 278 (**Relating to requiring legislative supermajorities to raise revenue.**)—Filed on November 22, 2002 by Tim D. Eyman of Mukilteo. This initiative was withdrawn by the sponsor before a ballot title was prepared.

INITIATIVE TO THE LEGISLATURE NO. 279 (**Relating to property taxes.**)—Filed on December 2, 2002 by Tim D. Eyman of Mukilteo. This initiative was withdrawn by the sponsor before a ballot title was prepared.

INITIATIVE TO THE LEGISLATURE NO. 280 (**Statement of the Subject: Initiative Measure**

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No. 280 concerns extra pay for public school teachers. Concise Description: This measure would award compensation to public school teachers rated highly on questionnaires filled out by students', parents and guardians, funded by a sales tax increase of fourteen one-hundredths of one percent (0.14%).—Filed on November 25, 2002 by Donald D. Hansler of Spanaway. No signature petitions were submitted for checking.

INITIATIVE TO THE LEGISLATURE NO. 281 (Statement of the Subject: Initiative Measure No. 281 concerns reduction of the state property tax levy. Concise Description: This measure would gradually eliminate the state property tax levy for the common schools, by 25% of the current level in 2003, 50% in 2004, 75% in 2005, and completely (100%) in 2006.)—Filed on December 13, 2002 by Tim D. Eyman of Mukilteo. The initiative was withdrawn by the sponsor.

INITIATIVE TO THE LEGISLATURE NO. 282 (Relating to re-establishing I-601.)—Filed on December 9, 2002 by Tim D. Eyman of Mukilteo. The initiative was filed too late to receive a ballot title.

INITIATIVE TO THE LEGISLATURE NO. 283 (Relating to property taxes.)—Filed on December 18, 2002 by Tim D. Eyman of Mukilteo. The initiative was filed too late to receive a ballot title.

INITIATIVE TO THE LEGISLATURE NO. 284 Relating to initiative signature gathering.)—Filed on December 9, 2002 by J. Pat Thompson of Everett. The initiative was filed too late to receive a ballot title.

REFERENDUM MEASURES
(SUPPLEMENTING 2002 LAWS, PAGE 2346)

REFERENDUM MEASURE NO. 50 Chapter 149, Laws of 2002 (Statement of the Subject: The legislature passed Engrossed House Bill 2901 (EHB 2901) concerning unemployment insurance [and voters have filed a sufficient referendum petition on parts of this bill].)
Concise Description: This bill would authorize additional training benefits for unemployed aerospace workers, adjust the maximum limits for unemployment benefit payments, and make various changes to unemployment insurance rates for employers.)—Filed on March 29, 2002 by Elliot J. Swaney of Olympia. No signature petitions were presented for checking.

REFERENDUM MEASURE NO. 51 Chapter 149, Laws of 2002 (Statement of the Subject: The legislature passed Engrossed House Bill 2901 (EHB 2901) concerning unemployment insurance [voters have filed a sufficient referendum petition on parts of this bill].)
Concise Description: This bill would revise laws regarding unemployment insurance for employers, including establishing new employer rate classes, increasing taxable wage bases, and imposing surcharge taxes if certain contingencies occur.)—Filed on March 29, 2002 by Elliot J. Swaney of Olympia. The measure was withdrawn by the sponsor.

REFERENDUM MEASURE NO. 52 Chapter 354, Laws of 2002 (Statement of the Subject: The legislature passed Substitute House Bill 1268 (SHB 1268) concerning state personnel reform [and voters have filed a sufficient referendum petition on parts of this bill].)
Concise Description: This bill would provide collective bargaining for state employees concerning wages, hours, and working conditions, subject to legislative funding approval, and establish effective dates for state personnel reform and competitive contracting for services.)—Filed on April 4, 2002 by Elliot J. Swaney of Olympia. The measure was withdrawn by the sponsor.

REFERENDUM MEASURE NO. 53 Chapter 149, Laws of 2002 (Statement of the Subject: The legislature passed Engrossed House Bill 2901 (EHB 2901) concerning unemployment insurance [and voters have filed a sufficient referendum petition on parts of this bill].)
Concise Description: This bill would revise laws regarding unemployment insurance for employers, including establishing new employer rate classes, increasing some taxable wage bases, and imposing surcharges if certain contingencies occur.)—Filed on April 8, 2002 by Elliot J. Swaney. 151, 239 signatures were submitted and found sufficient. The measure was submitted to the voters at the November 5, 2002 general election. ***Failed to pass** by the following vote: **Approved** - 665,760 **Rejected** - 966,901. As a result, the portions of this bill included in the referendum did not become law.

* Term "Failed to pass" indicates sponsor of Referendum was successful in attempt to prevent measure from becoming effective law.

REFERENDUM BILLS

(SUPPLEMENTING 2002 LAWS, PAGE 2351)

(Measures passed by the Legislature and referred to the voters)

REFERENDUM BILL NO. 51 Chapter 202, Laws of 2002 (The Legislature has passed House Bill No. 2969, financing transportation improvements through transportation fees and taxes. This bill would increase highway capacity, public transportation, passenger and freight rail, and transportation financing accountability through increased fuel excise taxes, sales taxes on vehicles, and weight fees on trucks and large vehicles.) The measure was submitted to the voters at the November 5, 2002 state general election and was rejected by the following vote: **Approved** - 674,724 **Rejected** - 1,081,580.

**HISTORY OF CONSTITUTIONAL AMENDMENTS
ADOPTED SINCE STATEHOOD
(SUPPLEMENTING 2002 LAWS, PAGE 2356)**

No. 95. Section 2, Article VII. Re: **Limitation on levies**. Adopted November, 2002.

